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SPEECH

OF

MR. RUSK, OF TEXAS,

IN REPLY TO

MR. BENTON,

IN RELATION TO

THE BOUNDARIES OF THE STATE OF TEXAS.

DELIVERED IN THE SENATE OF THE UNITED STATES, JULY 16, 1850.

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DELIVERED IN THE SENATE OF THE UNITED STATES, JULY 16, 1850.

The Senate having under consideration the bill for the admission of California into the Union, the establishment of Territorial Governments for Utah and New Mexico, and making proposals to Texas for the settlement of her northern and western boundaries; and the pending question being on Mr. BENTON's amendment relating to the boundaries of Texas and New Mexico—Mr. RUSK said:

Mr. PRESIDENT: I desire very briefly to answer a few of the observations made by the Senator from Missouri (Mr. BENTON) on this amendment—not upon the general subject of the bill, but with reference to that part of it which provides for a proposition to be made to the State of Texas. I have investigated this subject of title frequently during the last two or three years, because it has been a matter of great importance to the State which I in part represent. And with the fullest examination which I have been able to give it, I have come to the conclusion that the title is clearly and conclusively in the State of Texas, and that the United States have no title which they can set up as against that State. Had I entertained any doubt on the subject, that doubt would have been removed by the production of the "close and conclusive" evidence which the honorable Senator from Missouri drew "from the bowels of the case" on yesterday. When a gentleman of his known ability is driven, in support of the claim of the United States to this territory, to such testimony as has been produced, and designates it as "close" and "conclusive," it seems to me that the claim of the United States must be entirely hopeless.

In the first place, as evidence to show that the territory on this side of the Rio Grande down to the mouth of the Rio Puerco belongs to the United States, the Senator takes the bill reported by the Committee of Thirteen. Now, what authority is there in this evidence? What does it amount to? It is the *report of a committee.* It has not been acted upon by the Senate. There is no

authority in it, one way or the other, for or against Texas. It has not even received the sanction of the Senate. It is not a law—and, if the honorable Senator can prevent it, I imagine it never will become a law. The Senator takes this as "conclusive" evidence to show that the bill proposes to convey to the State of Texas a part of the territory belonging to the United States. But I might show that he himself did not rely on this, for after showing and proving by the bill, as he said he did, that this was "cutting off New Mexico below the hips," at the close of his remarks, he used the bill for a purpose directly opposite, and says that if the bill passes it proves the title of Texas to the territory on this side of the Rio Grande, and raises "the slavery question." Now, this is singular "evidence," that can operate "conclusively" in favor of both sides. This land belongs either to Texas or the United States—it cannot belong to both.

The next piece of evidence which the honorable Senator produces is equally unfortunate, and even more so than the other for his case. This piece of evidence is what he terms "an authentic map of the State of Texas," certified to by "Thomas J. Rusk, Sam Houston," &c. the representative and Governor of the State. Here is the map, (holding it up,) which can be seen by any gentlemen, and I desire that it may be examined. For what is this map introduced? As "conclusive evidence, drawn from the bowels of the case," to prove that the United States owns the land on the east bank of the Rio Grande, down to the mouth of the Puerco river.

Now, if my colleague or I could make evidence for or against Texas by any signatures that we might annex, there might be some plausibility in the production of the map, if it proved any title. But, suppose we were to certify a thousand times, it would make no evidence, confer no title, give no claim to Texas nor to the United States, for we do not own the land. It belongs to our State. We have set up no individual claim to it; and, therefore, whatever we might certify would amount to nothing as evidence. But I am willing to take this map—I will certify to it again. Allow me, sir, to read the law of the Legislature of the State of Texas, the passage of which immediately preceded the making of this map:

AN ACT to create and organize the county of Santa Fe.

Sec. 1. *Be it enacted by the Legislature of the State of Texas*, That all that territory included in the following boundaries, to wit: Beginning at the junction of the Rio Puerco with the Rio Grande, and running up the principal stream of the said Rio Grande to its source, and thence due north to the forty-second degree of north latitude; thence along the boundary line as defined in the treaty between the United States and Spain, to the point where the hundredth degree of longitude west of Greenwich intersects Red river; thence up the principal stream of said Red river to its source; thence in a direct line to the source of the principal stream of the Rio Puerco, and down the said Rio Puerco to the place of beginning, is hereby created into a new county to be called the county of Santa Fe.

Sec. 2. *Be it further enacted*, That the town of Santa Fe, shall be the county seat of the county of Santa Fe.

Sec. 3. *Be it further enacted*, That the citizens of the county of Santa Fe are hereby entitled to the same officers and courts to which the other counties of this State are

entitled: *Provided*, that nothing in this act shall be so construed as to give said county of Santa Fe a separate land district, or to authorize the county court of said county to issue land certificates.

Sec. 4. *Be it further enacted*, That the District Judge of the eleventh Judicial District of the State of Texas shall designate the places at which elections shall be held for county officers, on the first Monday in August next, or at such other time as he may think proper. and shall give thirty day's notice of the same, and appoint the presiding officers to hold the elections and make returns to him, and he shall examine the returns and declare those receiving the highest number of votes for the respective offices duly elected, and make return thereof to the Secretary of State.

Sec. 5. *Be it further enacted*, That this act take effect from its passage.

Approved, March 15, 1848.

This is the act of the Legislature of Texas, passed and approved March 15, 1848. This map was made out immediately afterwards, and the map adopts precisely the boundaries marked out for the county of Santa Fe, showing the western boundary of Texas to be the Rio Grande, and its northern boundary the 42d degree of north latitude. It was certified to on the 12th day of August, 1848. Now, if this map be evidence, it proves that every foot of land up to the Rio Grande belongs to Texas. And there is an end of the case at once.

But, sir, I have a proposition to make to the Senator from Missouri, as he seems to rely on this map to prove his position. The Texas question is one of the principal difficulties in the controversy, which at present creates so much sectional agitation. It is, I regret to say, in its present position, one of the most irritating and the first in which any unpleasant *action* is likely to take place. Now, I propose to the honorable Senator, that if he will introduce a bill or resolution and cause it to be passed into a law, and sanctioned by the President, declaring that the boundaries of Texas shall be as laid down on the map of De Cordova, certified by Thos. J. Rusk and Sam Houston, this controversy will be ended forever, and not a dollar will be needed out of the public treasury. Texas will be satisfied, amply satisfied with it, if the United States and the Senator will be so; and there will be an end of this entire controversy, nobody grumbling, except perhaps a few that want some capital for agitation. Texas will accept it, for it will give her her rightful boundary—the Rio Grande from its mouth to its source.

I have now, I think, successfully disposed of all the "conclusive" testimony which the honorable Senator has brought forward in support of the claim of the United States. But some other observations fell from the honorable Senator in relation to this matter, to which I feel it my duty to reply briefly. One of these observations was that the possession of this country was in the United States, adverse to Texas, and that it was their duty, if it was necessary, by force to maintain that possession against Texas. I regretted exceedingly some months since to hear this declaration fall from the distinguished Senator from Missouri. I regretted it more when, in a communication from the late lamented Eexecutive, the same ground was again taken; because, to my apprehension, this view of the subject brings about a collision in which one party or the other will have to recede.

Now, I deny that possession of the territory was held adversely to Texas previously to the beginning of this session of Congress. Never, until the commencement of this session of Congress, was the possession of Santa Fe held adversely to the State of Texas—and I will not stop at the bare assertion, but will prove the fact. I could refer to many official documents on the subject, but I shall content myself with adverting to but a few. I shall have occasion hereafter to prove that the President of the United States, when he ordered possession to be taken of Santa Fe, did so under the title of Texas. He set up no other, and asserted at the time that he recognized the title of Texas as valid.

Some weight has been attached to a proclamation of Gen. Kearny, promising the people of Santa Fe, when he took possession of their town, certain political rights. It has been read once or twice very triumphantly—once by the Senator from Massachusetts, (Mr. DAVIS,) and again by the Senator from New Jersey, (Mr. DAYTON.) I will not read that proclamation, but here is what was said, not only to the people of Santa Fe, but repeated to Congress, in an Executive communication to this body. It is from a letter of the Secretary of War (Mr. Marcy) of the 11th January, 1847:

"It is proper to remark, that the provisions of the laws which have been established for the government of the Territory of New Mexico go, in some few respects, beyond the line designated by the President, and propose to confer upon the people of the Territory political rights under the Constitution of the United States. Such rights can only be acquired by the action of Congress. So far as the code of laws established in New Mexico, by your authority, attempts to confer such rights, it is not approved by the President, and he directs me to instruct you not to carry such parts into effect."

The President himself is more full on that subject than even the instructions of the Secretary of War, and says that "no department of this Government can confer political rights except the Congress of the United States."

There was, sir, another order given to the commander at Santa Fe. I read from a letter of the Secretary of War, (Mr. Marcy,) October 12, 1848:

"In regard to that part of what the Mexicans called New Mexico, lying east of the Rio Grande, the civil authority which Texas has established or may establish there is to be respected, and in no manner whatever interfered with by the military force in that department, otherwise than to lend aid on proper occasions in sustaining it."

These, then, were the instructions given October 12, 1848, under which the commanding officer at Santa Fe was acting at the time the late lamented President took his seat. They were, to some extent, continued by an order of the Secretary of War, (Mr. Crawford,) of March 26, 1849:

"It is presumed that the instructions from this Department, of October 12, 1848, forwarded by the hands of Midshipman Beall, of the navy, have been received by you some time since: nevertheless, I herewith furnish copies of the same.

"With respect to that portion of the instructions which is in the following words:—'In regard to that part of what the Mexicans called New Mexico, lying east of the Rio Grande, the civil authority which Texas has established or may establish there is to be respected, and in no manner interfered with by the military force in that department, otherwise than to lend aid on proper occasions in sustaining it,' I have to remark, that it is not expected Texas will undertake to extend her civil government over the remote

region designated; but should she do so, you will confine your action, under the clause above cited, to arranging your command in such manner as not to come into conflict with the authorities so constituted. On the claim of Texas to any or the whole of New Mexico east of the Rio Grande, it is not necessary to give an opinion, as Congress and that State alone have the power of adjusting it."

This only repeals so much of the former instructions as required the commanding officer *to aid the authorities of Texas* in extending her jurisdiction. Thus things remained until the 19th day of November, 1849, less than a month before the meeting of Congress. I read now from a letter of the Secretary of War, (Mr. Crawford,) November 19, 1849:

"WAR DEPARTMENT, *Washington, Nov.* 19, 1849.

"SIR: As you are about to join your regiment, now on duty in New Mexico, it has occurred to me as proper to make some observations on the peculiar condition of that and another Territory of the United States.

"Since their annexation, these Territories, in respect to their civil governments, have in a great measure depended on the officers of the army there in command; a duty it is considered as falling beyond their appropriate spheres of action, and to be relieved from which cannot be more desired by them than by this Department. This condition has arisen from the omission of Congress to provide suitable governments, and in regard to the future there is reason to believe that the difficulties of the past are still to be encountered. In every possible aspect, it is important, both to New Mexico and the United States, that these embarrassments should be quickly removed.

"It is not doubted that the people of New Mexico desire and want a government organized, with all proper functions for the protection and security of their persons and property.

"The question readily occurs, how that government can be supplied? I have already averted to past and still existing difficulties, that have retarded, and may continue to retard, the action of the United States in respect to this necessary and first want. To remove it may, in some degree, be the part of the duty of officers of the army, on whom, under the necessities of the case, has been devolved a partial participation in their civil affairs. It is therefore deemed proper that I should say, that it is not believed that the people of New Mexico are required to await the movements of the Federal Government, in relation to a plan of Government proper for the regulation of their own internal concerns.

"The Constitution of the United States and the late treaty with Mexico, guaranty their admission into the Union of our States, subject only to the judgment of Congress. Should the people of New Mexico wish to take any steps towards this object, so important and necessary to themselves, it will be your duty, and the duty of others with whom you are associated, not to thwart but advance their wishes. It is their right to appear before Congress and ask for admission into the Union.

"Other and complicated questions may arise, which are considered as merged in this essential right of these people, and for the decision of which we must look beyond the authority of the Executive.

"It will be instructive, and probably necessary information, when the people of New Mexico form a constitution and seek admission into the Confederacy of the States, to have your observations and views on their probable numbers, habits, customs, and pursuits of life.

"I have the honor to be, very respectfully, your obedient servant,

"GEO. W. CRAWFORD,
"Secretary of War.

"Brevet Lieut. Col. GEORGE A. MCCALL,
"Philadelphia, Pennsylvania."

In military phrase, the words used are equivalent to a command to advance the wishes of the People of New Mexico, who are told in this communication, for the first time, that they are entitled to certain political rights as a community, and to admission into the Union as a State. This order was issued on the

19th of November last, less than a month before the meeting of Congress.

This entirely changes the whole aspect of the question. Texas, prior to that time, with the knowledge and approval of the Government of the United States, had been making the necessary arrangements for the purpose of extending her civil jurisdiction in that quarter. The officers of the United States were, in the first instance, ordered *not to interfere in, but aid* any efforts which Texas might make for the accomplishment of her purpose. Some time afterwards they were directed *not to intefere at all.* And, on the 19th of November last, they are directly told *to interfere.* Texas, some two or three years ago, passed a law for the purpose of organizing that territory. She sent a judge out there for that purpose, who went out and came back and reported that he failed in effecting an organization of the Territory, not on account of the citizens there, but *of the interference of the officers of the army,* and temporary officers appointed by Gen. Kearny, and certain individuals who had no identity with the country.

Texas has not been hasty in this matter. She would then have been perfectly justifiable had she sent an armed force there. She would have come in conflict with no law, and subjected herself to no imputation of seeking to raise any difficulty, if she had sent a sufficient force to require obedience from these people on her territory. She did not do so. She appointed a commissioner. When he arrives at El Paso he finds the order of March, 1849, in force. The United States officer tells him that he shall not interfere; and the moment he says so, the people of that section of the territory organize into a county and elect their officers. When he arrives at Santa Fe, according to his report, and in fact, the report of the United States officer himself, it was owing to the interference of that officer that he was prevented from organizing the county of Santa Fe. A gentleman there, invested with a little brief authority, denounced Texas, and threatened to imprison her commissioner, who had gone there by himself, peaceably and quietly, a distance of five hundred miles, translated this order into Spanish, and circulated it among the people, and a thousand stories were circulated to alarm and discontent the people. Here, within a few days, the commissioner of Texas and the people of Texas know for the first time that the Government of the United States assumes to hold possession of this territory under an adverse claim, and means to maintain that possession by the sword. Now, what is Texas to do under such circumstances. The honorable Senator says, "submit to the law." And he gives us an instance of the advice he gave, as a sort of example for me to follow—to advise "submission to the law." Well, I will advise "submission to the law," but it must be to "THE LAW." The President, in his annual communication, says that he cannot determine the question of right between Texas and the United States. There is no *law* of the United States authorizing the establishment of a Territorial Government there; no *law* of the *United States* authoriz-

ing the establishment of a *State Government there; no action of Congress whatever.* Where is "*the law?*" There is none, unless the order of the Secretary of War of the 19th of November, 1849, be designated as such. Does the honorable Senator from Missouri ask me to submit to a law of that description? Has the Secretary of War a right to make "*the law?*" Has he the right, after making it, to enforce it by the power of the sword of the United States? If that be "law," it is such law as the people of Texas will not submit to without a struggle, which will only end with their power to continue it.

I regret these circumstances as much as any man in the Senate, for I do not know what sacrifice I would not make to see quiet and harmony restored to the country. I scarcely know what sacrifice I would not make to avoid the necessity that Texas should be compelled to be the first to move in a manner which may end God only knows where. But, sir, we have no choice left but to submit to the order, which may be changed to-morrow; or, by the best means in our power, to assert our right. This we must do. We may be compelled to submit to the force of the United States. This is a controversy between the United States and Texas. I throw New Mexico out of the way. We have no controversy with New Mexico. There is no such organized community. Our controversy is with this Government, goaded on by fanatics, fatally bent upon mischief.

Sir, I hope Texas will proceed with caution. I hope she will wait a reasonable time for justice to be done to her, but when the choice is between submission to the military power of the United States, in regard to this possession, and the enforcement of her jurisdiction by all the means in her power, there will be but one course left for her to pursue, consistently with her rights, her honor, and her self-respect. A weak power cannot abandon what she knows belongs to her, with credit. The Government of the United States could, if it would, alter their course and act with magnimity, because they have the power to enforce. Texas cannot do it, and I am sure will not do it. I should regret to see the day when this collision shall take place; I believe it will be the darkest which this country ever saw; but if it should occur, I have as clear and conscientious a conviction as I have that I am standing on the floor of the Senate of the United States, that Texas will be right, and the Government of the United States will have been urged on by factious clamor to do a palpable wrong. So far as I am concerned, cost what it will, I shall assume my full share of the responsibility which may attach to me as a citizen of Texas, in enforcing her jurisdiction over this territory.

But gentlemen say, "you have no title; it is a mere pretext;" and it has been asserted recently, officially, that Texas has only lately advanced a claim to this territory. Now, sir, it is just the reverse; the Government of the United States has *recently advanced* a claim to this territory. It is not yet a year old in any official form. Texas has claimed this territory since 1835. After

her first victory over her enemy, for reasons of a substantial nature, which I will not now stop to inquire into and state to the Senate, Texas designated the Rio Grande as her boundary. After the capture of Santa Anna, with arms in her hands, and in presence of an *uncaptured* force, numbering four times the number of soldiers that she had in the field, she again asserted this boundary. In 1836 she asserted it upon her statute-book, and when the Government of the United States made an overture to Texas, repeating it twice, and asked her to become part and parcel of the Union, she was claiming this very boundary. It was the subject of discussion here, and the Senator from Missouri (Mr. BENTON) himself, in a speech which he delivered on that occasion, said that "if you go on in this way, and annex Texas with her present claim of boundary, you annex her with all that she claims as her territory," or words to that effect. At the time of the annexation, sir, there was an unsettled question between Texas and Mexico. War had existed between them, and we had designated different boundaries. The boundary designated by Texas was the Rio Grande; the boundary designated by Mexico was the Sabine. All of the territory between these two rivers was staked upon the issue of the war which existed between them. The United States made her proposition, and we accepted it, taking upon themselves, in express terms, the power to settle this question of boundary: taking the power out of the hands of Texas "to settle with foreign Governments" (which must have meant Mexico, and nothing else) "questions of boundary." Now, suppose that the United States had entered into a treaty with Mexico to establish this boundary. Gentlemen tell me "the Government of the United States were not acting as your agent, or in the capacity of judges:" but I ask any reasonable man if the United States were in a condition, after having sought, and asked, and begged Texas to come into the Union, and promised to settle the boundary, whether they were in a condition to go with clean hands into the market, and purchase any part of this territory from Mexico, adversely to the claim of Texas? If they could purchase one foot of it, if they could purchase Santa Fe, they could, on the same principle, purchase all the territory in dispute. If they could do that, they had a perfect right to purchase out all claim that Mexico had, and they could have purchased the State of Texas out of existence, buying up to the Sabine. The principle follows, and you cannot escape from it. Once admit the principle, and the consequence follows clearly. We thought, when coming into the Union, that we were receiving certain solemn guaranties, and making a compact; but if this be your principle, our guaranties are but the mercy of this Government, limited only by its discretion over our very existence; because, if it could purchase any part of the disputed territory from Mexico, it could purchase the whole. Such is the claim advanced at present to this territory! Such is the claim, just after the fourth of July, when there have been twenty thousand

orations pronounced, declaring that we are the greatest, the most magnanimous, and the most honest nation on the face of the earth. A claim bottomed on such a principle is now set up, and attempted to be enforced against a weak and exhausted State of the Union. But, say gentlemen, "you ought to settle this question." It is not for us to settle it; we have never seen your claim, until within a year past, and you tell us now that the Supreme Court can settle it. I do not believe this assertion; I differ with gentlemen who have expressed such an opinion, and I think that upon a review of that opinion they will modify it themselves. The Supreme Court, in my opinion, has no jurisdiction over this question of boundary. By express stipulation in the joint resolutions of annexation, authority was given to the Government of the United States to settle the question, and every body understood that there was no power through which it could exercise that authority and settle the question except the treaty-making power of the Government. There was a clear and unmistakeable agreement that the United States should settle this question of boundary, through the treaty-making power, and the United States cannot transfer that power to another department without the consent of Texas. This is not one of the cases that was contemplated by the article of the Constitution; it is not one of the cases confided to the Supreme Court. Here was a controversy between Mexico on the one side, and Texas on the other; and the United States at her own request was selected to determine it. The United States, after they had annexed Texas, were bound, and they so regarded it themselves, to settle this controsy between Mexico and Texas, as soon as they conveniently could. Allow me to read upon this subject, a short extract from the annual message of President Polk to Congress, in December 1845:

"The jurisdiction of the United States, which, at the formation of the Federal Constitution, was bounded by St. Mary's on the Atlantic, has passed the capes of Florida, and been peacefully extended to the Del Norte."

Gentlemen smile, and they may say that this was the mere opinion of the President. That is true, but it is the opinion of the President expressed to Congress, and expressed at a time of high excitement, under an apprehension that war would take place, and it has the endorsement and sanction of the silent assent of Congress. I might refer to more extracts from the message, but I will proceed. On the 11th May, 1846, the President says:

"The strong desire to establish peace with Mexico on liberal and honorable terms, and the readiness of this Government to regulate and adjust our boundary, and other causes of difference with that Power, on such fair and equitable principles as would lead to permanent relations of the most friendly nature, induced me, in September last, to seek the re opening of diplomatic relations between the two countries. Every measure adopted on our part had for its object the furtherance of these desired results. In communicating to Congress a succinct statement of the injuries which we had suffered from Mexico, and which have been accumulating during a period of more than twenty years, every expression that could tend to inflame the people of Mexico, or defeat or delay a pacific result, was carefully avoided. An envoy of the United States repaired to Mexico, with full powers to adjust every existing difference. But, though present on the Mexican soil by agreement between the two Governments, invested with full powers, and

bearing evidence of the most friendly disposition, his mission has been unavailing. The Mexican Government not only refused to receive him, or listen to his propositions, but, after a long continued series of menaces, have at last invaded our territory, and shed the blood of our fellow citizens on our own soil.

* * * * "On the 10th of November, 1845, Mr. John Slidell, of Louisiana, was commissioned by me as an envoy extraordinary and minister plenipotentiary of the United States to Mexico, and was entrusted with full powers to adjust both the questions of the Texas boundary and of indemnification to our citizens. The redress of the wrongs of our citizens naturally and inseparably blended itself with the question of boundary.

* * * * * * *

"In my message at the commencement of the present session, I informed you that, upon the earnest appeal, both of the Congress and Convention of Texas, I had ordered an efficient military force to take a position 'between the Nueces and the Del Norte.' This had become necessary, to meet a threatened invasion of Texas by the Mexican forces, for which extensive military preparations had been made. The invasion was threatened solely because Texas had determined, in accordance with a solemn resolution of the Congress of the United States, to annex herself to our Union; and, under these circumstances, it was plainly our duty to extend our protection over her citizens and soil. * * *

"Meantime Texas, by the final action of our Congress, had become an integral part of our Union. The Congress of Texas, by its act of December 19, 1836, had declared the Rio del Norte to be the boundary of that republic. Its jurisdiction had been extended and exercised beyond the Nueces. The country between that river and the Del Norte had been represented in the Congress and in the Convention of Texas; had thus taken part in the act of annexation itself; and is now included within one of our Congressional districts. Our own Congress had, moreover, with great unanimity, by the act approved December 31, 1845, recognized the country beyond the Nueces as a part of our territory, by including it, within our own revenue system; and a revenue officer, to reside within that district, has been appointed, by and with the advice and consent of the Senate. It became, therefore, of urgent necessity to provide for the defence of that portion of our country. Accordingly, on the 13th of January last, instructions were issued to the General in command of these troops to occupy the left bank of the Del Norte. This river, which is the southwestern boundary of the State of Texas, is an exposed frontier; from this quarter invasion was threatened; upon it, and in its immediate vicinity, in the judgment of high military experience, are the proper stations for the protecting forces of the Government. * * *

"[Mexico] upon the pretext that Texas, a nation as independent as herself, thought proper to unite its destinies with our own, has affected to believe that we have severed her rightful territory, and in official proclamations and manifestoes has repeatedly threatened to make war upon us, for the purpose of reconquering Texas. In the meantime, we have tried every effort at reconciliation The cup of forbearance had been exhausted, even before the recent information from the frontier of the Del Norte; but now, after reiterated menaces, Mexico has passed the boundary of the United States, has invaded our territory, and shed American blood upon the American soil. She has proclaimed that hostilities have commenced, and that the two nations are now at war.

"As war exists, and notwithstanding all our efforts to avoid it, exists by the act of Mexico herself, we are called upon by every consideration of duty and patriotism to vindicate with decision the honor, the rights, and the interests of our country.

"War actually existing, and our territory having been invaded, Gen. Taylor, pursuant to authority vested in him by my directions, has called on the Governor of Texas for four regiments of State troops—two to be mounted, and two to serve on foot; and on the Governor of Louisiana for four regiments of infantry, to be sent to him as soon as practicable.

"In further vindication of our rights, and defence of our territory, I invoke the prompt action of Congress to recognize the existence of the war, and to place at the disposition of the Executive the means of prosecuting the war with vigor, and thus hastening the restoration of peace. To this end I recommend that authority should be given to call into the public service a large body of volunteers to serve for not less than than six or twelve months, unless sooner discharged."

Upon this message most authoritative action took place; the declaration of war and the appropriation of men and money. I could dwell upon the action of Congress, but I will not weary the

Senate. I could multiply extracts from the annual and special messages of the President, but I will content myself with reading a few only. In the annual message of 1847, the President says:

"The commissioner of the United States was authorized to agree to the establishment of the Rio Grande as the boundary, from its entrance into the Gulf to its intersection with the southern boundary of New Mexico, in north latitude about thirty-two degrees, and to obtain a cession to the United States of the provinces of New Mexico and the Californias, and the privilege of the right of way across the Isthmus of Tehuantepec. The boundary of the Rio Grande and the cession to the United States of New Mexico and Upper California, constituted an ultimatum which our commissioner was, under no circumstances, to yield. * * *

"The terms of a treaty proposed by the Mexican commissioners were wholly inadmissible. They negotiated as if Mexico were the victorious, and not the vanquished party. They must have known that their ultimatum could never be accepted. It required the United States to dismember Texas, by surrendering to Mexico that part of the territory of that State lying between the Nueces and the Rio Grande, included within her limits by her laws when she was an independent republic, and when she was annexed to the United States and admitted by Congress as one of the States of our Union. * * *

"New Mexico is a frontier province, and has never been of any considerable value to Mexico. From its locality, it is naturally connected with our western settlements. The territorial limits of the State of Texas, too, as defined by her laws, before her admission into our Union, embrace all that portion of New Mexico lying east of the Rio Grande, while Mexico still claims to hold this territory as a part of her dominions. The adjustment of this question of boundary is important."

In his message transmitting to the Senate the treaty with Mexico, President POLK said:

"To the tenth article of the treaty there are serious objections, and no instructions given to Mr. Trist contemplated or authorized its insertion. The public lands within the limits of Texas belong to that State, and this Government has no power to dispose of them, or to change the conditions of grants already made. All valid titles to land within the other territories ceded to the United States will remain unaffected by the change of sovereignty; and I therefore submit that this article should not be ratified as a part of the treaty."

Again, in his message of July, 1848, he says:

"The war with Mexico having terminated, the power of the Executive to establish or to continue temporary civil governments over these territories, which existed under the laws of nations, whilst they were regarded as conquered provinces, in our military occupation, has ceased. By their cession to the United States, Mexico has no longer any power over them, and, until Congress shall act, the inhabitants will be without any organized government. Should they be left in this condition, confusion and anarchy will be likely to prevail. * * * * * * *

"New Mexico and Upper California have been ceded by Mexico to the United States, and now constitute a part of our country. Embracing nearly ten degrees of latitude, lying adjacent to the Oregon Territory, and extending from the Pacific ocean to the Rio Grande, a mean distance of nearly a thousand miles, it would be difficult to estimate the value of these possessions to the United States."

In a special message, in answer to a resolution of the House of Representatives, on 24th July, 1848, Mr. POLK said:

"In answer to the resolutions of the House of Representatives of the 10th instant, requesting information in relation to New Mexico and California, I communicate herewith reports from the Secretary of State, the Secretary of the Treasury, the Secretary of War, and the Secretary of the Navy, with the documents which accompany the same. These reports and documents contain information upon the several points of inquiry embraced by the resolutions. 'The proper limits and boundaries of New Mexico and California' are delineated on the map referred to in the late treaty with Mexico, an authentic copy of which is herewith transmitted, and all the additional information upon

that subject; and, also, the most reliable information in respect to the population of these respective provinces, which is in the possession of the Executive, will be found in the accompanying report of the Secretary of State. * * * * *

The boundary in dispute was the line between the two countries engaged in actual war; and the settlement of it of necessity depended on a treaty of peace. Finding the Mexican authorities and people in possession, our forces conquered them, and extended military rule over them and the territory which they actually occupied, in lieu of the sovereignty which was displaced. It was not possible to disturb or change the practical boundary line, in the midst of the war, when no negotiation for its adjustment could be opened; and when Texas was not present, by her constituted authorities, to establish and maintain government over a hostile Mexican population who acknowledged no allegiance to her. There was therefore no alternative left, but to establish and maintain military rule during the war, over the conquered people in the disputed territory who had submitted to our arms, or to forbear the exercise of our belligerent rights, and leave them in a state of anarchy and without control. * * * * * * * *

"By the joint resolution of Congress of March 1, 1845, 'for annexing Texas to the United States,' the 'adjustment of all questions of boundary which may arise with other Governments' was reserved to this Government. When the conquest of New Mexico was consummated by our arms, the question of boundary remained still unadjusted. Until the exchange of the ratifications of the late treaty, New Mexico never became an undisputed portion of the United States, and it would therefore have been premature to deliver over to Texas that portion of it, on the east side of the Rio Grande, to which she asserted a claim. However just the right of Texas may have been to it, that right had never been reduced into her possession, and it was contested by Mexico. * * * *

"Under the circumstances existing during the pendency of the war, and while the whole of New Mexico, as claimed by our enemy, was in our military occupation, I was not unmindful of the rights of Texas to that portion of it which she claimed to be within her limits. In answer to a letter from the governor of Texas, dated on the 4th January, 1847, the Secretary of State, by my direction, informed him, in a letter of the 12th of February, 1847, that in the President's annual message of December, 1846, 'you have already perceived that New Mexico is at present in the temporary occupation of the troops of the United States, and the government over it is military in its character. It is merely such a government as must exist under the laws of nations and of war, to preserve order and protect the rights of the inhabitants, and will cease on the conclusion of a treaty of peace with Mexico. Nothing, therefore, can be more certain than that this temporary government, resulting from necessity, can never injuriously affect the right which the President believes to be justly asserted by Texas to the whole territory on this side of the Rio Grande, whenever the Mexican claim to it shall have been extinguished by treaty. But this is a subject which more properly belongs to the legislative than the executive branch of the Government.'

"The result of the whole is, that Texas had asserted a right to that part of New Mexico east of the Rio Grande which is believed, under the acts of Congress for the annexation and admission of Texas into the Union as a State, and under the constitution and laws of Texas, to be well founded; but this right had never been reduced to her actual possession and occupancy. The General Government, possessing exclusively the war making power, had the right to take military possession of this disputed teoritory, and until the title to it was perfected by a treaty of peace, it was their duty to hold it, and to establish a temporary military government over it, for the preservation of the conquest itself, the safety of our army, and the security of the conquered inhabitants."

In the last annual message of President Polk, dated 5th of December, 1848, he further says:

"The acquisition of California and New Mexico, the settlement of the Oregon boundary, and the annexation of Texas extending to the Rio Grande, are results which, combined, are of greater consequence, and will add more to the strength and wealth of the nation, than any which have preceded them since the adoption of the Constitution."

From page twelve of the same message:

"But to effect these great results, not only California, but New Mexico, must be brought under control of regularly organized governments. The existing condition of California, and of that part of New Mexico lying west of the Rio Grande, and without the limits of Texas, imperiously demand that Congress should, at its present session, organize territorial governments over them. * * * * *

"Upon great emergency, however, and under menacing dangers to the Union, the Missouri compromise line in respect to slavery was adopted. The same line was extended further west in the acquisition of Texas. After an acquiescence of nearly thirty years in the principle of compromise recognized and established by these acts, and to avoid the danger to the Union which might follow if it were now disregarded, I have heretofore expressed the opinion that that line of compromise should be extended on the parallel of thirty-six degrees thirty minutes from the western boundary of Texas, where it now terminates, to the Pacific ocean. This is the middle ground of compromise, upon which the different sections of the country may meet, as they have heretofore met. If this be done, it is confidently believed that a large majority of the people of every section of the country, however widely their abstract opinions upon the subject of slavery may differ, would cheerfully and patriotically acquiesce in it, and peace and harmony would again fill our borders.

"The restriction north of the line was only yielded to in the case of Missouri and Texas upon a principle of compromise, made necessary for the sake of preserving the harmony, and, possibly, the existence of the Union."

The claim of Texas to the Rio Grande was asserted by the President, never denied by Congress, inserted in the treaty, and for more than two years acquiesced in by the Government of the United States. Texas had no right to sue the Government of the United States. It has been contended that the United States had the right to sue Texas; why, then, in the name of common sense, when the dispute first occurred, did they not at once bring suit? As soon as the treaty was made was the time to have brought the suit, but there was then no claim to this territory, and the right of Texas was again and again acknowledged. Under such circumstances, what pretence, what shadow of a pretence, has the United States to any title in this territory? And it must be a very strong and indisputable title that will justify recourse to means different from those resorted to heretofore, and entirely new in our practice, to array the military force against the citizens. It ought to be a much stronger title than any which depends upon mere assertion. Sir, I hope some adjustment will take place upon this subject. I have remained silent with regard to the general provisions of this bill. I care not how this controversy is settled, so that the semblance of justice is kept up towards all parts of the country. If we can get clear of this eternal turmoil, I feel, so far as I am concerned, willing to make almost any sacrifices. I know that the State of Texas is willing to make great sacrifices. She will assent to anything that is at all fair. Withdraw your claim; give her the boundaries which properly belong to her; settle this question forever, and do not keep it open as the point on which sectional divisions may be made. Withdraw your claim to her territory, and so far as she is concerned, she will be quiet and contented. I know that she stands charged by a Senator from New York (Mr. SEWARD) with "knowing how to coin money out of the United States by means of the admiration which she had excited." That was an unkind remark towards Texas, particularly as coming from a Senator, some of whose constituents, without ever looking at a map, without ever examining the treaty, have been pronouncing judgment against Texas in this controversy, for the purpose of keeping open this interminable agitation on the slave question. And

we are charged with wanting money from the treasury of the United States. Sir, Texas has been modest upon this and all other subjects. This is not the time to allude to subjects which may excite feeling; but under these taunts, I must allude to one or two of them.

When Texas, with less than thirty thousand inhabitants, was struggling against a nation of eight millions of people, that were overrunning the country and threatening extermination without regard to age or sex, the Indians belonging to the United States, who had been driven to our borders, were in our territory, in violation of the solemn treaty to which the United States had agreed, warring upon our wives and children. On the day that I was engaged in the battle of San Jacinto, my wife and children had to take refuge with the late gallant Gen. Gaines, on this side of the Sabine, to avoid being scalped by Indians of the United States, from whom this Government was bound by solemn treaty to protect them.

Mr. Houston. And whose annuities were paid in ammunition and arms.

Mr. Rusk. With one tribe of Indians (the Caddoes) the United States made a treaty requiring them to go into the Territory of Texas and never return within the limits of the United States, and under that treaty they were supplied with $10,000 worth of powder, lead, and arms, which were used in war upon our defenceless wives and children. When pursued they would retreat into the territory of the United States. It was my duty to pursue them to the town of Shreveport, within the jurisdiction of the United States, for which I was rebuked by the Governor of Louisiana, and which afforded an opportunity for a display in the House of Representatives. There I had to take out of their hands the arms and ammunition furnished to them by this Government. Sir, this state of things has not ceased even now. While you are seeking to take our territory from us, while you are raising armies in this country to force our land out of our possession, four or five hundred of your Indians, driven out of Florida and other States, are upon the soil of Texas, and engaged at this moment in hostilities and in depredations upon the property and lives of our citizens, without regard to age, sex, or condition. Such, sir, is the true state of the facts, but we have not complained; we are not willing to complain; but when, in addition to this, you ask us to submit to the sword that ought to be drawn in our defence, and to march on and off the territory as the Executive Government may direct, I hope you will not believe that we will tamely submit to such wrong and degradation.

SPEECH

OF

HON. R. S. BALDWIN, OF CONNECTICUT,

IN FAVOR OF

THE ADMISSION OF CALIFORNIA INTO THE UNION,

AND

ON THE TERRITORIAL BILLS, AND THE BILL IN RELATION TO FUGITIVE SLAVES, IN CONNECTION WITH MR. BELL'S COMPROMISE RESOLUTIONS.

DELIVERED

IN SENATE OF THE UNITED STATES, MARCH 27 AND APRIL 3, 1850,

WASHINGTON:
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1850.

THE TERRITORIAL QUESTION.

The Senate having under consideration the resolutions of Mr. BELL, of Tennessee, and the motion of Mr. FOOTE to refer them to a Select Committee of Thirteen,

Mr. BALDWIN said: To that motion, Mr. President, an amendment was offered by myself on a former occasion, which was subsequently modified at the suggestion of the Senator from Missouri, [Mr. BENTON,] to exclude from the consideration of the committee the subject-matter of the message of the President transmitting the constitution of California, and recommending her admission into the Union. It is upon that motion that I propose to address the Senate, availing myself of the opportunity it affords me to express my views somewhat at large upon other questions connected with the proposition and with the resolutions introduced by the Senator from Tennessee, [Mr. BELL.]

I have listened, Mr. President, with deep interest to the discussions in the Senate on the questions presented by the message of the President, and the resolutions of the distinguished Senators from Kentucky and Tennessee. In the general tone and spirit which have characterized the debate, I have seen much to admire and something to regret. It has been my endeavor to keep my own mind free from any undue excitement, with a determination, in any legislative act which I may be called upon to perform, to be governed by the spirit of the Constitution and of the distinguished men who coöperated in its formation and adoption. That sacred instrument speaks in no sectional language. The voices of the whole American people are there united in harmonious concord, proclaiming union, justice, liberty, domestic tranquillity, and the general weal, to be its glorious purposes. It was made and adopted in a spirit of liberal indulgence to conflicting interests and sentiments, tolerating, no doubt, some institutions then regarded as temporary, and some compromises which many of us of the present day doubtless would wish had been otherwise. But they are there—they are in the Constitution; and so far as my constituents are concerned, I feel myself authorized by the resolutions of the General Assembly of Connecticut, now lying upon your table, to say that the people of my own State are prepared to adhere to and abide by those compromises, to the letter and in the spirit of the same.

Such, sir, are the instructions, such is the solemn declaration of the General Assembly of the State of Connecticut, passed by a nearly unanimous vote of both Houses of the Legislature. But they have also instructed their Senators, and requested their representatives in Congress, to oppose, in all constitutional ways, any and every new measure of compromise by which any portion of our free territory may be given up to the encroachments of slavery, or by which the people of the United States may be made responsible for its introduction or continuance. These instructions are in accordance with my own deliberate judgment. It will, therefore, afford me great pleasure to conform to them. I wish, however, not to be understood as concurring in sentiment with the distinguished Senator from Michigan, [Mr. CASS,] whom I do not now see in his seat, and with my friend from Illinois, [Mr. DOUGLAS,] who have addressed the Senate on the subject of instructions. I should never be willing, standing here as an American Senator, to record my vote for any measure contrary to the dictates of my own judgment, enlightened by the deliberations of this body, even though I were positively instructed to do so by the Legislature of my State. If I believed in this doctrine of instructions—if I believed that it was improper for a Senator to avail himself of the position in which his constituents had placed him, to vote against their wishes as expressed in their resolutions—I should feel myself bound to render something more than a nominal obedience to their requisitions. I should not feel at liberty to avail myself of that position in the debates of this body to neutralize my own votes by endeavoring to influence the votes of others against it. I would keep the word of promise fully, if I felt myself bound by it at all.

The resolutions now before the Senate, offered with the best of motives by my distinguished friend from Tennessee, and the proposition to refer those resolutions to a committee composed of gentlemen from the North and from the South, who are to deliberate with a view of making some compromise of sectional interest, and bringing before the body, in the form either of one act or of several acts, the results of their deliberations, do not commend themselves to my judgment. The question of California, presented with the message of the President, ought not, in my opinion, to be connected with any other question whatever. It stands upon its own foundation. If the people of California are entitled to be admitted into this Union, they have a right to have that question considered by itself. They are here claiming a right—a right stipulated by treaty—a right which we are pledged, as they insist, to accord to them. If they are correct in this opinion, certainly it is

but fair and just that the question which they have presented should not be embarrassed by connection with any other proposition.

The proposition before the Senate, and the resolutions of the distinguished Senator from Tennessee also, assume that these are questions which are to be decided with reference to northern and southern interests, as if those interests were antagonistic to each other. In my view, this is an unsound, and, in its tendency, an unconstitutional mode of legislation. It tends to produce and to encourage sectional claims and sectional combinations, which it was the desire, the anxious desire, of the framers of the Constitution to prevent. The Constitution regards this nation as one people. It knows no North or South, or East or West. It regards us as one. In the celebrated proclamation of President Jackson, of 1832—a measure, which, in my judgment, reflected more honor, more credit, upon the reputation of that distinguished individual, than any other act of his public life—he says:

"The terms used in its construction show it to be a Government in which the people of all the States collectively are represented—a Government which operates directly upon the people individually, and not on the States."

It has provided in itself all the securities which were deemed necessary or proper for a fair expression of the will of the nation upon every question of public interest. It sedulously guards against all combinations of sectional interest, as distinct from the general welfare. It confers no power to make sectional compacts, or arrangements, for any purpose, much less for purposes of that description, to bind the legislation of a future Congress, or to prevent, in any legitimate form, the expression of the popular will. Sir, we all represent one country, and, in this sense, one constituency. And while standing here in this body, our primary allegiance is, in my judgment, due to that country which in all its parts is here represented; whose requirements of us are embodied in that constitutional Government we have all sworn to support. We are not legislating for the States of which this Union is composed. We are legislating for the people; and not for the people as represented by their particular States, but for the people of the United States. As these resolutions, then, assume, contrary to what I regard as the just theory of the Constitution, and of the framers of that instrument, that we are here as a divided people, sectionally divided, having sectional interests which it is proper for us as legislators to compromise, I am opposed to any such committee.

But, sir, in regard to the State of California, now applying for admission into the Union, I am not aware how that can be regarded as a sectional question between the North and the South. I am not aware of any peculiar interests which my constituents, as such, have in the decision of that question, other than the people of any other portion of this country. I am not aware that the introduction of the Senators and Representatives from California, to coöperate with us in our legislation here, will be any more likely to conduce to the promotion of the interests of my constituents than to the interests of those of any other portion of the country. It is not, therefore, upon that ground that I sustain their claims to admission. It is well known to members of this body, who were here during the prosecution of the Mexican war, that I was opposed to the war. I regarded it as a war of conquest, and as irreconcilable, on that ground, to the principles of free government, upon which our national institutions are based. I voted with the Senator from North Carolina, [Mr. BADGER,] who addressed the Senate the other day, against the acquisition of all this territory, and against the stipulations for the admission of any of the territories acquired into the Union as States. Sir, the cession was made: the treaty was ratified. The dominion of the Mexican territory was transferred to the United States. What was then their condition? California had, as a part of the Mexican Republic, a territorial government of its own—laws of its own—for the regulation of its municipal concerns distinct from those of the Mexican Republic. The general system of law was the same in both. Under that Government, and under the laws of its enactment, or the laws enacted for it by the Republic of Mexico, the inhabitants of California enjoyed their liberty, their property, and their civil rights. Under those laws they held them at the time of the cession. What then was our stipulation in regard to them? By the ninth article of the treaty with Mexico, it is provided that,

"The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution, and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction."

Their liberty and their property, in the mean time, until in the judgment of Congress the proper period should arrive for their incorporation into the Union as States, were stipulated and guarantied to them by the treaty. What was the liberty thus guarantied in the mean time to the Mexican inhabitants of California? Not their political liberty, of course, because they were not in a condition at that time to be admitted into this Union; but their civil liberty—a right to be protected by just and expedient laws, properly administered. This was the guarantee. Their property was that which they held under those laws. Here, then, was a solemn duty assumed by the people of the United States by this treaty, binding them, until the people of California should be in a condition to be incorporated into the Union, to give them full protection, by law, for their liberty, their property, and their civil rights.

That treaty, of course, became the supreme law of the land; and it became obligatory upon the President of the United States, as the Executive of this nation, to see that its requirements were duly executed, as it is our duty now to see that the other stipulations of that treaty are faithfully fulfilled. What were those laws that were thus to be administered for their protection! They were of necessity, either the laws which, at the time of the treaty, existed and regulated the property and the social relations of the people, or they were laws to be substituted for them by the Government to which dominion was transferred. They could emanate from no other authority. If, then, the then existing Mexican and departmental laws were not abrogated by new enactments, the treaty continued them in force just as much as if they had been reënacted. The stipulations for the protec-

tion of liberty and property could not otherwise be fulfilled. There was no necessity for any act of Congress, such as was passed upon the transfer of Florida, to continue in force the existing laws. The treaty necessarily, in the fulfillment of its own stipulation for the protection of the rights which the people of the United States had assumed the obligation to protect, continued those laws in force as fully as they could have been continued by any enactment whatever. California became thereby, in fact, a territorial government or department of the United States, having its own system of laws, though not, perhaps, the power of enacting new ones, but having a system of laws which were continued in operation, and administered by officers existing in that territory, formerly as a territory of the Mexican republic, but now as a territory of the United States. These laws were not only not abrogated, but they were, in fact, expressly recognized by Congress; for, by a joint resolution passed on the 2d of March last, the Congress of the United States invited emigration to the Territories of California, of Oregon, and of New Mexico, and directed the Secretary of War to furnish to the emigrants who might apply for them, arms and ammunition, at cost, for their protection. What made California and New Mexico, regions bordering upon each other, separate territories in the opinion of those by whom this law was enacted? They could be separate only, because they were governed by distinct systems of local administration—distinct systems of law for the protection of the civil rights and the property of the inhabitants. If the cession which was made by the extension of the boundary of the United States, so as to comprehend all this region, obliterated the territorial landmarks, destroyed the territorial government, why, sir, they could not have been spoken of and treated by Congress as distinct territories, as they were. It is not and cannot be claimed that Congress was bound to continue in force all the laws then existing for the government of the territories. They might be amended and improved; but the treaty guarantied that Congress should do all that was necessary, either by the adoption of the preëxisting laws, or by the enactment of others, to secure the people of those territories in the enjoyment of their liberty and property. Well, sir, the benefit of this guarantee, although made to the Mexican inhabitants, necessarily accrued to all who, by the invitation of Congress, chose to emigrate, and make California a habitation and a home. Now, there can be but one system of local legislation for all the inhabitants. Whether, therefore, the inhabitants of California were the original Mexican inhabitants, or whether they were the emigrants introduced in pursuance of our invitation, Congress was equally bound to afford them a system of law adequate to their protection.

Mr. YULEE, (interposing.) Mr. President, if the Senator——

Mr. BALDWIN. I should prefer not, as I do not like the practice which has become so frequent of late in the Senate, unless I have made some erroneous statement of fact which the Senator wishes to correct.

Mr. YULEE. That is precisely what I rise for—to correct a fact which seems to me material.

Mr. BALDWIN. Then I will yield the floor.

Mr. YULEE. The Senator stated, in relation to Florida, that the Spanish laws were recognized by an act of Congress as continuing in force upon the transfer of that country to the jurisdiction of the United States. I rise for the purpose of correcting the Senator upon that point of fact. The Senator is entirely mistaken in the statement which he makes. On the contrary, the only code of laws which was recognized as having force in Florida after possession was taken by General Jackson was the code of laws adopted and issued by General Jackson, under authority of a joint resolution of Congress, which empowered the President of the United States to appoint an officer to receive possession of Florida, and to hold it in possession, conferring upon that officer all civil, judicial, and legislative functions which had been previously exercised by Spanish officers. General Jackson, under that authority, recognized such laws as he deemed suitable for the territory, and enacted other laws himself; and under these laws the people of Florida were governed until the territorial act was passed. The act to which the Senator refers had reference to the laws adopted and promulgated by General Jackson, and not to the Spanish laws previously in existence. I make the correction now, because I observe that the same error has been made in the other House, and perhaps in this on a previous occasion.

Mr. BALDWIN resumed. It is perfectly immaterial, as far as regards my own argument, what system of laws had been adopted in relation to Florida. I introduced it incidentally, for the purpose of showing that, in my judgment, if there was a treaty binding this Government to protect the citizens in their liberty and their property, and this Government had neither enacted nor authorized the enactment of any other system of laws than that which then existed, and under which the inhabitants were protected in their civil rights, it necessarily follows that those laws must be continued; for, otherwise, the treaty obligations could not be fulfilled. Had California continued as it was, composed of a few sparse settlements, the laws in force at the time of the cession would have been ample for their protection. Their interests were small; their transactions with each other were comparatively few; their temptations to crime were slight; but, under our authority, by our invitation, a vast influx of population from all parts of the world, have migrated to California. Ships from Europe and Asia and Western America, as well as from our own coast, have entered their magnificent harbors, richly laden with the products of every climate. Mines of gold of unsurpassed richness have allured adventurers of every description, and given a new impulse to labor in all the departments of industry. Towns and cities have arisen among them, as by magic; thousands of people are clustered together, from different nations, of dissimilar habits, differing in their usages, and the systems of law to which they had been accustomed in the places from which they migrated—differing not merely from those of the Mexican inhabitants but of each other. It is perfectly obvious then, sir, that the system of law, and the administration which would have yielded competent protection to the Mexicans inhabiting this territory at the time of the treaty, would now be totally inadequate to the exigencies of society. It is true, sir, that there is there a very large propor-

tion from the best population of this country. It is mingled with a population from other regions requiring the restraint of severer laws than any that have heretofore existed there. We all know that, in a remote country like that, thus newly settled by those who are strangers to each other, who come with habits thus dissimilar, the ordinary restraints of society, which stand in the place of law in older countries, have but a feeble hold upon the population. What, then, was the necessary result? That liberty and property were in a great measure unprotected. Crimes were committed, and there were no adequate tribunals to try and punish the offender. Contracts were made and broken, and there were none to administer justice. Rights of property were violated with impunity. Who was responsible for all this? The old Mexican laws, the old departmental officers, were entirely inadequate to the purposes for which Government was now needed. What, then, should be done? They appealed to Congress. Congress, representing the supreme power of this Government, to whose dominion they had been transferred by Mexico, refused to interfere—refused to aid them with a system of laws adequate to the circumstances in which they were placed. Even the writ of *habeas corpus* and the right of trial by jury were vainly attempted in this body, at the last session, to be conferred upon this distant people. Mexico had relinquished her dominion to a power that refused to exercise it efficiently for their protection. The greater portion of the people were our own citizens, our own kindred, our sons. What could they do? What was the President, bound as he was by the duties of his office to see that the stipulations of this treaty were properly fulfilled, required to do? Was he to fold his arms quietly, and leave these people unprotected, without an effort to secure to them the fulfillment of the stipulations of the treaty? Was it the duty of the people of the territory to remain unprotected by the neglect of Congress? or was it their right, as American citizens, inheriting as their birthright the great principles of liberty, for which their fathers had contended through the war of the Revolution, to seek protection for themselves by the establishment of a government which Congress had refused to provide for them? Were they not right when, under these circumstances, they applied to the only representative of the sovereign power of this Government who was among them? and was he not bound to yield his assent, as he did, to their request? It was their right. Allegiance and protection are reciprocal duties. It was our duty, it was the duty of our public officers, of our Executive, to see that those people were provided with a government adequate to their protection.

Mr. BORLAND, (interposing.) Mr. President, will the Senator permit me to ask him a single question?—to ask him if he did not himself refuse to vote for giving a government to California?—if he did not refuse to vote for a measure which he says was indispensably necessary?

Mr. BALDWIN. The question, Mr. President, as regards my own vote at the last session of Congress, is entirely irrelevant to the proposition I am now maintaining. I did vote, sir, against one of the propositions to give to this people a government, because I thought that it was not such a government as they ought to have—not such a government as the obligations of good faith required us to give them.

When this territory was about to be ceded to the United States, or rather during the negotiations with the Mexican Government, her commissioners expressed an earnest desire that the people of the territories which were ceded might be protected against the introduction of slavery there. I voted at the last session of Congress against the proposition for giving to this people the government which was then proposed, because I was unwilling that the existing laws of Mexico, which prohibited slavery, should be abolished by Congress. I was unwilling that any territorial government should be formed that did not contain a provision to secure them that protection which they had desired so earnestly to make a condition of the cession. But, sir, I myself introduced to the consideration of this body a proposition to extend to this people the benefits of their existing laws, and to add to them the privilege of the trial by jury and the writ of *habeas corpus;* a writ to which every American citizen ought, in my judgment, to be entitled. No Government, sir, can acquire dominion, and refuse to exercise it for the protection of a people situated like these, without giving to that people the right to provide for their own protection. You may call it revolution, sir, or by any other name; but it has its origin and its defence in natural right. It rests on the principle upon which all free government is based—upon the inherent right of every man and of every community to provide for their own preservation.

This people, thus driven by necessity to the formation of a government, have shown, by the wisdom which distinguished the action of their convention, their capacity for self-government. This, sir, will not be denied by any one who has read the proceedings of that body. And if they have proved this, they have proved a right to come here, as they have done, and ask of us to say, in the exercise of an enlightened judgment, whether the proper time has not arrived for their admission into the Union as one of the States; and if so, to require us to fulfill the obligations of the treaty and the assurances that were given by Mr. Buchanan and by the American Commissioners to the Mexican Government after the ratification of the treaty by the Senate. What were those assurances? Mr. Buchanan, in commenting on the ninth article of the treaty as altered by the Senate, in his letter addressed to the Minister of Foreign Relations of the Mexican Government, on the 18th March, 1848, said:

"Congress, under all the circumstances, and under the treaties, are the sole judges of this proper time, because they, and they alone, under the Federal Constitution, have power to admit new States into the Union. That they will always exercise this power as soon as the condition of the inhabitants of any acquired territory may render it proper, cannot be doubted. By this means the Federal Treasury can alone be relieved from the expense of supporting territorial governments. Besides, Congress will never turn a deaf ear to a people anxious to enjoy the privilege of self-government. Their desire to become one of the States of this Union will be granted the moment it can be done with safety."

This, sir, was what the Mexican Government were told, after the Senate had made their alterations in the ninth article in the treaty, was the true construction of the language they had introduced. It was after the reception of this letter, giving the construction of our own Government

in regard to this and other alterations that were made, that the Mexican Government acted in the ratification of the treaty. Are we not, then, bound by it?

It has been said that they have done a revolutionary act in the formation of their Government. Why, sir, they have done no act against the sovereignty of this Government. They have not opposed our dominion; they have not set up for themselves an independent government. What they have done, they have done with the coöperation of the only representative of our Government on the spot, who knew and felt the necessities of that people, and which, in his judgment, required them to act precisely as they did act. Whatever they have done, they have done in acknowledgment of our right to the exercise of dominion, and in pursuance of their desire to avail themselves of the provisions of treaty by which they were entitled to become incorporated into our Union. And, sir, if they had said nothing of this kind, they would only have followed the examples set them by the ancestors of many of them more than two hundred years ago. The colonists of Connecticut met in January, 1639—finding themselves out of the limits of Massachusetts, and of every other jurisdiction—and formed a plan of government, under which they agreed to live—a system of government which, with few exceptions, in all its great principles for the security of liberty and human rights—for the advancement of education—for the promotion of all the objects of a wise and good government—remained substantially the government of that State for a period of nearly two hundred years. That government was thus formed by about eight hundred individuals, who had come to that remote region to form a settlement, without the consent of the British crown, without a charter, and with no title to the land except such as they fairly purchased from the aboriginal inhabitants. It remains a proud monument of their wisdom, and furnishes enduring evidence of their recognition and adoption, at that early period, of the great principles of human liberty. So the colony of New Haven, then a separate colony, having no connection with Connecticut, but which afterward united with it under the charter of Charles the Second—they, too, under the auspices of their distinguished leaders, John Davenport and Governor Eaton, at the head of a colony of emigrants from the city of London, men of intelligence, of education, and of sound judgment, formed a constitution for themselves, under which they lived in security and happiness.

The question, then, for Congress to decide is, not whether it is strictly regular for California to form a constitution and demand admission, as a legal right, into this Union—a right perfect and absolute—it is whether, when they have framed a constitution and applied to Congress, and when we concede that in substance the *casus fœderis* has arisen, whether under these circumstances, we will not receive them, although there may have been some irregularity in their incipient proceedings; whether we will not overlook that irregularity in the case of California, as we have done in other cases, and admit them to a full participation of our rights? If we find that the sentiments of the people have been fairly expressed, why have they not the same claim that the people of Arkansas, of Michigan, or of Tennessee even, presented, when they applied respectively for admission into the Union. The people of these States had, it is true, been under a territorial government different from the territorial government which existed in California, but no more a territorial government, than that which was continued in existence by the effect of the treaty of Guadalupe Hidalgo. The exigencies which, in the opinion of Congress, entitled those people to admission had arisen. The territorial government, in permitting the formation of the constitution, had been guilty, in some sense, of the usurpation of a power that strictly belongs to Congress; but it was waived, as the Senator from Maine [Mr. HAMLIN] has shown in his speech. Forms, sir, have rarely, in the history of our territorial governments applying for admission as States, been rigidly adhered to. Why, sir, what right had the convention of 1787, which framed the Constitution under which we now live, to destroy the old articles of confederation, and present to the people a constitutional government for their adoption? Their powers were limited to the amendment of the articles of confederation. But, sir, they saw that the exigency had arisen when this people required something more—that a government should be established—and they assumed the responsibility of framing and presenting to the people a constitution. Mr. Madison, in speaking of this in the Federalist, says:

"They must have recollected that, in all great changes of established governments, forms ought to give way to substance; it is essential that such changes should be instituted by some informal and unauthorized propositions."

The declaration of independence, too, was not an act competent to the colonial legislatures; it was an act of original inherent sovereignty by the people themselves, in whose name they undertook to act and to declare these United States to be one people. But if the act of California were to be regarded even as a revolutionary measure, and not merely an irregular exercise of their right under the treaty, by a people desirous of coming into the Union, and enjoying the rights and protection stipulated by the treaty, we should all be ready to admit that it is much less obnoxious to censure than a revolutionary act by an old State with a view to disunion and all the disastrous consequences that would follow.

This people have done no act in disregard of our authority or in denial of our right to dominion over them. Seeing the impossibility of our conferring upon them a government such as was required by their wants, they formed a government for themselves, of which they ask our sanction and approval. They call our attention to their population, now probably exceeding one hundred and twenty thousand, and daily increasing with unexampled rapidity; to their capacity for freedom; to their republican constitution; and the earnest desire of the people to be admitted to the enjoyment of the rights and privileges to which they claim to be entitled under the treaty.

If then, Mr. President, the people of California are here under a claim of right; if they have a right to call upon Congress to "judge," in the language of the treaty, of the "proper time" for their admission; if they have exhibited themselves before us in such a light that, in the exercise of an honest judgment, we are constrained to say, they are entitled to admission; what, I ask, has the North, what has the South, what has any sec-

tional interest to do with its decision? Why should they be mixed up with our controversy in regard to local questions not affecting themselves? The great question which has agitated us in regard to other territories, they have settled, rightfully settled, for themselves. Then, why is this introduced as one of the elements of compromise, by which conflicting opinions or conflicting interests are to be adjusted by a committee chosen with reference to sectional interests? If they have a right to be here, if they have a right to be heard, if they have a right to claim admission, because the "proper time" in the judgment of Congress has arrived, they have a right to come here, standing upon their own merits, and to claim that they shall not be embarrassed in any way, by being involved in the agitating questions of sectional politics. What good effect, Mr. President, can be anticipated, under these circumstances, from the appointment of a committee of compromise to take into consideration this claim of California? A committee of this body, not formed upon any principle of compromise, but one of our regular committees, has already reported a bill—a separate bill—for the admission of California, and territorial bills for the government of the other territories acquired from Mexico.

But it is said by gentlemen representing sectional interests, that the admission of California as a free State will disturb some fancied equilibrium which it is desirable to maintain between the free States and the slave States; and hence it is proposed to exclude California, notwithstanding she is here under the claim of right, until, by some arrangement, a new State can be introduced formed out of Texas, and perhaps until we can form a Territorial Government for New Mexico and Utah which shall open them for the introduction of the peculiar institutions of the South, or until we shall settle the account of northern aggressions, as they are called, in regard to fugitive slaves and anti-slavery petitions for the exercise of the constitutional power of this Government. I can perceive, sir, no reasonable hope of benefit in the organization of any such committee. On the other hand, should they report as a compromise a series of separate bills—one for the admission of California, one for the admission of States from the territory of Texas, one for Territorial governments without the proviso of the ordinance of 1787, for New Mexico and Utah, and one in relation to fugitive slaves—why, sir, if any one of these should be adopted, and the others should fail, should we not hear of imputations of bad faith charged upon all who voted against any measure thus reported? Sir, I can consent to the appointment of no committee which shall have even the moral power to pledge me or my action as a member of this body in regard to any future measure which may be offered to my consideration. I must act for myself. I must act according to the dictates of my own judgment; and every Senator should be in a condition to act upon every individual proposition that is made to this body, without being subject to the imputation of bad faith, if some measures which he approves should be adopted, and other measures which he disapproves rejected, by his vote. If, on the other hand, instead of reporting these different measures in separate bills, they are all incorporated into one bill, what is the consequence? Why, sir, unless they all meet the approval of the majority of the members of this body, California is to be kept out of the Union, her people are to be left unprotected, and the faith of the Government pledged by the treaty is to be violated, because we cannot agree to carry out all the elements of compromise that may be recommended by this committee. Sir, as I said before, this is a mode of legislation which, in my judgment, is against the spirit of the constitution; it is wrong, though well intended, I know, on the part of the distinguished Senator from Tennessee who introduced the resolutions, and of whose patriotism and spirit of conciliation, no one can entertain a doubt. It is a course of legislation which invites sectional combinations and the pursuit of sectional claims, for the purpose of being presented as the elements of some future compromise.

The resolutions of the honorable Senator from Tennessee [Mr. BELL] propose that Congress shall renew the assent given by the joint resolution of March, 1845, for the formation of three or four new slave States within the present territory of Texas, asserting, on the face of the resolution, that the faith of the Government is already pledged for their admission. If, indeed, Mr. President, that be the effect of the joint resolution, no act of ours can strengthen or impair the obligation. Whether it be so or not, appears to me to be a question which this Congress are not competent to solve. The entire territory of Texas has been admitted as a State; her admission as a State has been acquiesced in by the people of the United States; she is a member of this Union as a sovereign State, standing upon an equal footing with all her sister States. But, sir, the joint resolution which invited her, and which, it is claimed, constituted an irrevocable compact with Texas in regard to future subdivisions and the admission of new States formed out of her territory, was protested against by many States as being an unconstitutional enactment. That, sir, I may indeed say, was the sentiment of the majority of this body; for the joint resolution could never have been passed, had there not been a clause attached to the bill, giving the President the alternative of acting by negotiation, which, it was confidently supposed by Senators who voted for the resolution, the President elect was pledged to adopt.

Sir, the constitutionality of that act was protested against by my own State, and by the State of Massachusetts; and her protest was recorded here, after the passage of the joint resolution, and the acceptance by Texas of the overture it proposed. That resolution was passed in March, 1845; the General Assembly of Connecticut, at their session in May following, passed resolutions in these words:

"*Resolved*, That the power to admit into the Union new States, is not conferred upon Congress by the Constitution.

"*Resolved*, That the annexation of a large slaveholding territory by the Government of the United States, with the declared intention of giving strength to the institution of domestic slavery in the States, is an alarming encroachment upon the rights of the freemen of the Union, a perversion of the principles of republican government, and a deliberate assault upon the compromises of the Constitution, and demands the strenuous, united, and persevering opposition of all persons who claim to be the friends of human liberty."

There was another resolution of similar import, which I will not read at this time. Assuming it to be the true construction of the Constitution, as in my judgment it is, that foreign territories can be an-

nexed by the treaty-making power alone, it would follow that the joint resolution for the annexation of Texas was simply void. If so, I am not prepared to say that the acquiescence of the people of the United States in the union of Texas, has any other effect than to place her, by reason of that acquiescence, and not by reason of the joint resolution, on the footing of the other States in the Union.

In the debate on the British commercial convention, in 1816, the distinguished Senator from South Carolina [Mr. CALHOUN] stated his opinion to be, that whatever could be done by the treaty-making power could not be done by law. The Supreme Court of the United States have decided that the treaty-making power is competent to acquire foreign territory, and all the practice of this Government anterior to the annexation of Texas was in conformity with that decision of the court. No territory had been acquired from a foreign Government except by the action of the treaty-making power. The power to admit new States into the Union is a distinct power, applying only to the territories of the United States—a power to be exercised effectually only when a new State is formed and ready for admission. The Constitution of the United States declares that "no new State shall be formed or erected within the jurisdiction of any other State;" not that this may be done by the consent of Congress. "New States may be admitted by Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States or parts of States, without the consent of the legislatures of the States concerned as well as of Congress." But the clause in the Constitution prohibiting the formation of any new State within the jurisdiction of any other State has no qualification whatever. Congress cannot now authorize the formation of a new State within the jurisdiction of Texas. A new State, when formed, can, in the view of the Constitution, have no relation to any other State, but only to the Union. Texas, then, must first cede her jurisdiction, divide her debt, apportion her domain, withdraw herself into reduced limits, and leave out of her jurisdiction entirely the territory which it is claimed shall be admitted into the Union as a new State, before Congress can, in pursuance of the Constitution, authorise its formation.

When Maine came into the Union there was a preëxisting law, passed by Massachusetts, authorizing her to form a State independently of Massachusetts. And so it was when Kentucky came into the Union by the cession of her territory by Virginia. Has Texas ever offered to do this? Has Texas ever manifested a desire to embrace the condition annexed to the joint resolution? Have "the South" independently of Texas—the undefined "South," which has been represented by so many Senators upon this floor—has she a right to insist that Texas shall do this, or shall be permitted to do it, for the purpose of restoring some fancied equilibrium by the introduction of new Senators into this body? Is California to wait until some new *rotten-borough* system can be brought into existence for such a purpose? Whether any future Congress will be bound to admit any new States within the present territory of Texas, may well be left to them to decide when Texas shall consent to dismemberment. An act of future legislation will then be required, whatever we may now resolve. It is a grave question which I do not consider it necessary for any of us now to undertake definitely to decide. Some future Congress may be obliged to determine it It is enough for us to know—

"Non nostrum tantas componere lites."

When Texas, in December, 1845, having assented to the conditions in the joint resolution and disrobed herself of her sovereignty, offered herself for admission, fourteen Senators in this body recorded their votes against her, comprising, if I recollect aright, all of the Whig members, with the exception of four, including the honorable Senator from Georgia, [Mr. BERRIEN,] who felt themselves bound by the pledge made by the joint resolution and accepted by Texas, and voted for her admission. The fourteen Whig Senators who voted against it acted in accordance with the protest of Massachusetts, which was then presented by her Senators.

Suppose, Mr. President, that the objection was not to the joint resolution annexing Texas, but to some of the conditions, as unconstitutional. Suppose there had been a condition, offering to Texas, if she would come into the Union, the privilege of being entitled to four Senators, or that she might keep a navy in time of peace; and Texas had consented to that joint resolution, and offered herself for admission; would it have been binding upon this Government? Would the faith of the Government have been pledged? Texas, of course, knew when she was negotiating for admission into this Union, what were the rights and obligations the enjoyment of which she was seeking to acquire. She had perfect knowledge of the Constitution of the United States. Without designing to express myself any definite opinion on the question which I have no right now to decide, I protest against its being sent to a committee of compromise, that may lead to an imputation of bad faith, if, when they present some other measure which I may feel disposed to sustain, I should be unwilling to reassert in the language of these resolutions, the obligations of that pledge. Suppose that Canada should, in the course of some few years, be considered ripe for admission into the Union, and by a majority of one vote a joint resolution should pass admitting her, and authorizing her territory to be cut up from time to time into ten or twelve new States, to affect or change some supposed equilibrium of power: are the South—is this body—now prepared to say that it would be in the power of any one Congress—a Congress chosen for no such purpose—if by any means a majority of a single one could be secured, to bind so essentially the policy of this Government for any or all future Congresses? This is a grave question—one which deserves mature consideration. When the time shall come, when Texas will be ready to make application to subdivide herself in the manner proposed, other men will be here to occupy our places—men who will claim the right to act and judge for themselves; and I have no doubt that they will judge justly and wisely. If they shall be of opinion that new States from the territory of Texas are entitled to admission—if, upon the great principles which have hitherto governed Congress in its administration of this power, they shall then be of opinion that the proper time

has arrived for such action, they will no doubt do what shall seem right and just, under the circumstances which shall then surround them, unaffected by anything that we may now resolve. According to the spirit of the Constitution, ought not those who are to be called upon to exercise a power of this magnitude—those who must act legislatively before that power can be carried into effect—to be in a condition to exercise their own free judgment, untrammelled by the legislation of those who have preceded them years before, and who, under less favorable circumstances, may have endeavored to bind their actions?

But, sir, this is a question that no State but Texas can raise. What has the South to do with it? Texas has done nothing to manifest her desire to have it taken into consideration now. She retains the whole of her jurisdiction still, and, instead of curtailing, she is seeking to enlarge it, by swallowing up the greater part of New Mexico. When she does cede, the question will then arise, not with Texas, but with the new State to be created out of the territory of which Texas shall waive her right of jurisdiction. It will be presented on its own merits, and will be much more likely to be decided justly then than in a period of excitement like the present. It appears to me that we had better address ourselves to the duties of legislation which call for our action, avoiding what may reproduce the excitement and agitation that attended that most disastrous event—the annexation of Texas. What right have we to interfere, even to propose to Texas to dismember herself for the purpose of restoring the equilibrium of the slaveholding States? What would Virginia say if this Congress were to throw this apple of discord in her midst, and ask her to divide herself into two or more States? What would any States in this Union say to a proposal by Congress to divide up their territory? Would they acquiesce in it? Would they submit to it? No, sir; they would say it is time enough for Congress to act, when Congress can act pursuant to the Constitution upon territory beyond the jurisdiction of any State.

I trust then, Mr. President, that California is not to be connected with any question like this—is not to be called upon to wait until Texas shall have taken another census to ascertain that she has population enough for another State—until Texas shall be able to arrange with other portions of the territory the burden of her debt, and be willing to make a voluntary offer of a daughter as in readiness for the union. California, as I have said, is here upon her own right; she is here demanding the fulfillment of a treaty stipulation. We cannot, in my judgment, ask her to stand by until any other questions than those which concern herself, and herself alone, are arranged.

With regard to the other questions which have been connected with this subject, it seems to me that the only constitutional and proper mode of treating them, is to act upon them as they arise. The question of the extension of slavery over free territory, is a question which, in my judgment, does not admit of compromise. It involves a deep-seated principle. It is a question which, when thus presented, must be met, and met fairly, and decided as a question of principle, on which we may differ, to be sure; but it must be decided by the action of the constitutional organs of this Government, in the only way that their action is contemplated by the Constitution. If they decide it wrong, we have a judicial tribunal for those who feel aggrieved by the decision. But the question is one that the people of this country will never be satisfied, in my judgment, to see made an element of compromise, and for the very reason that it is a question of principle. I am not referring to the morality of slavery, to the evils of slavery; but I am assuming the fact to be as it is, and as we all know it to be, that a large portion of the population of these United States are, in principle, opposed to assuming any portion of the responsibility for its extension into territory now free. The Constitution never contemplated any extension of slavery. The Constitution has nothing to do with the recognition of slavery, except as it exists in the case of persons held to labor by the laws of particular States in the Union, whom it regards as debased by their servitude to the amount of two-fifths of their personal rights, and as such, allows to be the basis of representation and taxation; and for the performance of the duty imposed in regard to fugitives from labor. The Constitution recognizes the fact that involuntary servitude may exist by the laws of the States which tolerate it, in regard to persons owing service. It can exist by the power of Congress, in my judgment—except where the Constitution, for the mere purpose of recapturing and returning a fugitive, allows it—only where Congress possesses despotic power. Slavery can exist under no Government that does not possess despotic power. Man cannot be made a slave, unless some other man has by law the power to make him so—for the reason that, in the absence of human law, the natural law of equality must prevail, which gives to every man, in the language of Chief Justice Marshall, "the fruits of his own labor." It may creep in silently in the absence of positive enactment, and be recognized by a general usage among the people, which ultimately acquires the force of law; but its legality can be established only by the force of positive law. To whom, then, do these territories belong? They belong to the nation. No State in this Union, can, under the Constitution, acquire territory. They can neither make war, compact, nor treaty. Dominion must be exercised by the power that acquires it. The President, as the treaty-making power, represents emphatically the nation. The States, as such, exert no influence, except such as their Senators, appointed under the Constitution, and the Representatives from the different districts in the State, are enabled to exert as members of their respective bodies. They do not act here, as under the old Confederation, as States, but by a majority, however the body may be constituted. In the exercise, then, of this dominion over the territories, there can be but one will, and that will is the collective will of the people. That will can be manifested only by the legislation of Congress. The treaty-making power having the right to acquire territory and dominion, Congress, by the general grant of power, to make all laws which shall be necessary and proper for carrying into execution all the powers vested by the Constitution in the Government of the United States, or in any department thereof, has the power of exercising the dominion. Congress, of course, must, unless they are restrained by some prohibitory clause, judge of the necessity or the propriety of their legislation in reference to the purposes of

the union, and the welfare of the inhabitants of the acquired territory, both present and prospective. Their legislation affects the people of the territory, not as citizens of a State, but as citizens of the United States. The States to which they belonged cannot follow them with their laws, when they have left the State to settle in a Territory. They owe no longer allegiance to the State. They are citizens of the United States, inhabitants of its Territory, and subject alone to its laws. Otherwise, if the States were to be regarded in the government of the territory; if the State laws are to have any force or application there, it would follow that there could be no supreme law of the people, because the States being equal, the law of every State would be equal to that of every other: neither could be supreme, and there would be as great a variety in the codes of law as there are States to be affected by any peculiar interests they might desire to protect. The constitution of Mexico, and her laws, it has been shown, prohibited slavery at the time of the annexation of these territories to the United States. That law, regulating the personal rights of the inhabitants of Mexico, and their relations to each other, not being a political law entering into the government of the territory, remains in force, notwithstanding the cession, until it is abrogated by the Government that has succeeded to the dominion.

But it is said that slavery, being purely a domestic institution of the States, Congress, as the legislative organ of the Government of the United States, has no concern with it. If it be meant by this, that Congress has no concern with slavery in the States, why, it is perfectly true. Nobody claims that Congress can exercise any power over slavery in any State. Nobody, sir, in any part of the country, within my knowledge, sets up any claim of that sort. But, if it be meant that Congress cannot therefore prohibit it, where the policy of a territory is to be regulated exclusively by Congress, I deny the proposition. Congress must exercise its dominion, in reference to the welfare of the territory, precisely in the same manner, having reference to the great fundamental principles upon which our Government is formed, as any State Legislature is required to exercise its dominion within its own limits. Congress must judge for the inhabitants of a territory what laws it shall enact for them, and what laws it shall prohibit them from enacting, because Congress exercises the dominion. Well, if this be so, what ground is there for any State to say that Congress interferes with her rights? Do these territories belong to the several States? I know that some of the resolutions which have been passed by the State Legislatures have been passed in that form. But there is nothing in the Constitution to sanction any such idea. The treaty-making power negotiates for the nation—not as the agent of the States. The territory is acquired for the Union. The constituencies of the nation are the people, not the States. The people are equal, undoubtedly; but every citizen has not the right, therefore, as it is claimed, to go upon the territory, either with his property or without his property, until Congress chooses to invite emigration to the territory. When the citizens do go there, they stand in the territory upon an equal platform; they are all treated alike; for all the laws within any given jurisdiction affect the inhabitants residing in that jurisdiction alike. It has been insisted that, in the absence of any positive prohibition of slavery in the territories by Congress, slavery can go there on the ground that every individual has a right to take what the Constitution of the United States admits to be property. That depends upon the sense in which this admission, if there be such, is to be understood. If the Government of the United States recognizes merely the fact that certain persons, by the laws of certain States, owe service, or are deemed slaves by the laws of those States; and if the Government of the United States has assumed the obligation of giving extra territorial force to those laws in one particular case only—that of a wrongful escape, as it is called, from the dominion thus legally exercised over the slave—does it follow, if the master voluntarily takes his slave out of the jurisdiction of the State in which he is thus held, that the Constitution of the United States can in that case recognize him as a slave? Not at all. This question has been repeatedly decided. It has been uniformly held that that clause in the Constitution of the United States in regard to the restoration of fugitive slaves, has no application whatever to a slave who is taken voluntarily beyond the jurisdiction of the State whose laws have created the relation. The law on this subject is perfectly well established, not only in Great Britain, but in this country. In Burge's Conflict of Laws, a work of high authority, the law is thus stated:

"There exists," says Burge, "a status which is legal in the country in which it is constituted, but illegal in another country to which the person may resort. In this conflict there has been an uniformity of opinion among jurists, and of decisions by judicial tribunals, in giving no effect to the *status*, however legal it may have been in the country in which the person was born, or in which he was previously domiciled, if it be not recognized by the law of his actual domicil. This principle was adopted by the supreme council of Mechlin as established law, in 1531. It refused to issue a warrant to take up a person who had escaped from Spain, where he had been brought and legally held in slavery."—*Christ. Dec. tom.* 4, *Dec.* 80.

"By the law of France, the slaves of their colonies, immediately on their arrival in France, become free."

"In the case of Forbes *vs.* Cochrane, 2 Barn. and Cress., 463, this question is elaborately discussed and settled by the English court of K. B. 'The right to slaves, (it is there said,) when tolerated by law, is founded, not on the law of nature, but on the law of that particular country. It is a law *in invitum;* and when a party gets out of the power of his master, and gets under the protection of another power, without any wrongful act done by the party giving that protection, the right of the master, which is founded on the municipal law of the particular place only, does not continue. The moment a foreign slave puts his foot on our shores, he ceases to be a slave, because there is no law here which sanctions his being held in slavery; and the local law which held him in slavery against the law of nature has lost its force.'"—9 *Eng. C. L. Rep.* 115.

That is the principle of all the decisions upon this question. It is recognized as law by the Supreme Court of the United States. It is recognized as law by Chief Justice Shaw, in Massa-

chusetts, in the case of Lucas, which I had occasion to cite on a former discussion. How are the rights of the master to be asserted where there is no law establishing slavery? The slave may escape; how is the master to recover him? The slave brings the writ of *habeas corpus;* by what law in force in that territory can the master declare him to be held? Clearly, by none. In view of these principles, I am very clearly of opinion, Mr. President, that slavery is now prohibited by the continuing Mexican law in the Territory of New Mexico, and in all the territory over which it is now proposed to establish territorial governments. If so, it may then be asked, Why do you claim that Congress should, in the territorial bills, superadd a provision for the prohibition of slavery? Why do an act which is unnecessary, slavery being already prohibited there? If a territorial bill is passed, and the powers of government conferred upon those who may emigrate to the territory, and there is no restriction to prevent the establishment of slavery, it may go there; it may silently creep in; it may get a foothold in that way, as, it has already been remarked in the course of the debate, it has done in almost every State where it has ultimately established itself. It is to prevent the possibility of slavery being established in the free territory that many are desirous to extend over it the ordinance of 1787. If a territorial government is established there—if laws are made differing from the old Mexican laws now in force—if those Mexican laws are abrogated—why, we all know that if the climate is adapted to slavery, the avowed determination which has been distinctly manifested in several of the southern States to introduce it at all hazards, leaves little room to doubt that it may, and ultimately will, find access there. But southern gentlemen, in whose opinions confidence is reposed, deny that the Mexican laws prohibiting slavery are now in force. It is claimed that the Constitution of the United States has already found its way into the territory and established slavery there. Having already considered this legal question, I will not stop now to speak of it again; but if this opinion be extensively entertained by southern lawyers, unless there is a distinct provision by Congress for its exclusion, can it be said that there is no danger that slavery will get a foothold in the Mexican territory, which is now free?

It is said that the laws of nature forbid it; and therefore it will be regarded as a wanton insult upon the feelings or the prejudices of southern gentlemen, if such a prohibition is contained in the territorial bill. But here again the facts are denied. It is asserted by southern gentlemen, that this territory is adapted to slave labor. It has been asserted in this body that slavery will go there if it is not prohibited. The very excitement, the very agitation which has prevailed in different parts of the country upon this subject, shows that such an opinion is entertained. Is it to be supposed that the people of the South would become agitated and excited to such a degree as to threaten danger to the Union itself, unless there was some real interest to be affected by the questions about which this excitement has arisen?

Are we required to believe that the southern States, who unanimously enacted the ordinance of 1787, can now, at this late period, regard it as offensive that that ordinance shall be applied to other territories? Can it be believed that, if there was no reason to expect that slavery would find its way into the territories, there would be any more excitement likely to grow out of the application of the ordinance in this case than in the case of Oregon, or of the territory north of the Missouri line? Why should there be? No new principle is now asserted. It is merely the application of an old principle, settled and well established, and repeatedly enacted from the origin of the Government down to the present day, to a new territory, and to a territory which, when we acquired it, was as free from slavery as the territory of any of the free States of this Union.

And, sir, as to the matter of feeling. As has already been said, the people of the free States, and individuals from all parts of the country who are opposed to the system of slavery, regard it as a principle which is not to be yielded; that territory which is now free shall remain so; and that, therefore, if there be any danger of its being permitted to become slaveholding territory, it ought not to become so for the want of any action of the Congress of the United States which it may constitutionally adopt to prevent it. There is no unkind feeling in the matter. None is entertained. None whatever is intended to be indicated. It is the same feeling applied to these territories that led to the unanimous adoption of the ordinance of 1787. If gentlemen from the South think slavery will go there if not prohibited, other gentlemen here are authorized to assume that it will go there unless it is prohibited. And if there be this danger, then gentlemen from the North know perfectly well that there is but one opinion among their constituency in regard to the policy of affixing the prohibition.

But, sir, I regard it as important on another ground. Texas was annexed to this Union,—and that annexation is the cause of all this trouble,—with a view to strengthen and sustain the system of slavery in the South. There are other Mexican possessions in the vicinity of Texas of an equally enticing character, and the same spirit of cupidity for the acquisition of foreign territory that led to the annexation of Texas and the conquest of these territories, will hereafter lead to other wars, other conquests, other annexations.

Mr. RUSK, (interposing.) Will the honorable Senator allow me one single moment? I have heard it frequently asserted upon this floor that Texas was annexed to the United States for the purpose of strengthening the slaveholding power. No such element entered into the question, so far as Texas was concerned. It was a subject which was never taken into consideration by her; and I was not aware, and am not inclined to believe, that it was the motive of the United States. I can speak confidently for Texas.

Mr. DAWSON. Will the honorable Senator allow me to ask the Senator from Texas one question?

Mr. BALDWIN. Certainly.

Mr. DAWSON. Will the Senator from Texas inform the Senate whether, during the period that Texas was an independent Republic, slaves were imported there from any other country than the United States?

Mr. RUSK. Never, sir. At the very first Legislature, the importation of slaves from any other country than the United States was prohib-

ited, and made punishable as piracy. It was never done, sir; and could not be done.

Mr. BALDWIN. I alluded to the documents published to the world by the organ of this Government, under the administration of President Tyler—to a document published under the signature of the distinguished Senator from South Carolina, [Mr. CALHOUN;] his letter to Mr. Pakenham, the British Minister at Washington.*

Mr. SEWARD. And of Mr. Upshur, also.

Mr. BALDWIN. Yes; and his predecessor, Mr. Upshur. These documents are amply sufficient, in my judgment, to establish the point. I have not got them now at hand; but they have been placed before us here during the debates upon this subject. I must be permitted to draw my own conclusions from them. If other gentlemen draw different conclusions from these documents, they are at liberty to do so; but, sir, it has been distinctly avowed on this floor, by the distinguished Senator from South Carolina himself, that he urged the annexation of Texas on the ground that Great Britain was making efforts to procure the abolition of slavery in that Republic; which, if successful, would leave an exposed frontier to the aggression of the abolitionists, and endanger the institution in the bordering States. And, sir, causes may exist with regard to the other provinces of Mexico contiguous to Texas, which will seem to demand their acquisition for a similar purpose. It is certain, indeed, that they will exist. Those territories are now free; and if it is understood to be the settled and irrevocable policy of the Government, in accordance with what was the policy of this Government in 1787, to regard free territory as not subject to the admission of slavery, then I say the temptation to wars of annexation in that direction, will cease.

I do not, Mr. President, intend to occupy the time of the Senate with discussing at large either the moral or the political aspects of slavery. I do not consider this a fit occasion for the discussion of the one, and I have heretofore submitted to the Senate fully, my sentiments with regard to the other. I do not, therefore, deem it necessary now to occupy their time with the further discussion of them.

But, Mr. President, it is claimed that these questions shall go to a committee, for the purpose of being compromised, with a view to a final settlement of the account between the different sections of the Union in regard to the recovery of fugitive slaves, and the agitation growing out of the course pursued by individuals in the free States in relation to this subject. I propose, Mr. President, to say a few words in regard to the aggressions which have been imputed by the honorable Senator from South Carolina and others, to the free States in reference to fugitive slaves; and I beg to say, sir, that so far as my own State is concerned, I deny that she has ever been unfaithful to any obligation imposed upon her by the Constitution of the United States. Prior to the decision of the Supreme Court, in the case from Maryland which has been alluded to—the case of Prigg *vs.* the State of Pennsylvania—it was the opinion of the Legislature of Connecticut that it was a duty pertaining to the States, and not to the Government of the United States, to provide the means of enforcing the provision of the Constitution of the United States on this subject. They passed a law for the performance of that duty in a manner calculated to fulfill what they supposed to be their obligations under the Constitution, and at the same time to secure the free citizens of the State from the danger to which they were exposed from the summary action of inferior State officers, acting under the law of Congress. They prohibited their inferior magistrates from the exercise of the functions conferred on them by the act of Congress, and provided that any judge of the supreme or superior courts, any judge of the county or other court, having power under the laws of the State to issue the writ of *habeas corpus*, might, upon the application of any person claiming a fugitive from service under the laws of another State, issue a warrant for the apprehension of the fugitive, to bring him before such judge for a hearing. If he claimed to be a free man, the law provided that, at the request of either party, an impartial jury should be summoned to hear the case, and determine upon the respective rights of the parties. And if that jury should find that the individual did owe service to the person who claimed him as a slave, then it was made the duty of the judge to grant a certificate for his delivery, pursuant to the provision of the act of Congress. When the decision was made by the Supreme Court in the case of Prigg *vs.* the State of Pennsylvania, that all action of State legislatures on the subject was unconstitutional, and that this whole business pertained exclusively to the United States, to be exercised, in accordance with its laws, by its own tribunals, the State of Connecticut repealed the statute which had been enacted in good faith, when she supposed it to be her duty to act in this matter. Not being willing that every inferior magistrate should exercise, without responsibility to the State, the tremendous power conferred upon them by Congress, of deciding the question of human liberty or slavery, she prohibited them from acting as State magistrates under the act of Congress. But, sir, the act contained a proviso that nothing therein should be construed to impair any rights which, by the Constitution of the United States, might pertain to any person to whom, by the laws of any other State, labor or service might be due from any fugitive escaping into the State of Connecticut, or to prevent the exercise in that State of any powers which may have been conferred by Congress on any judge or other officer of the United States in relation thereto. Now, sir, in my judgment, this is right. The judges of the United States now have the power to perform this duty under the Constitution; but the inferior magistrates of the States have not, and, in my opinion, ought not to have, the right to exercise it. Why should they? Whose duty is it to perform this service now? The highest tribunal of the land has declared it to be the duty of the Government of the United States, and that State laws interfering in any way with its performance are null and void; that the

* In the letter of Mr. Calhoun to Mr. Pakenham, dated Washington, April 27, 1844, he says: "The United States in concluding the treaty of annexation with Texas, are not disposed to shun any responsibility which may fairly attach to them on account of the transaction. The measure was adopted with the mutual consent, and for the mutual and permanent welfare of the two countries interested. *It was made necessary in order to preserve domestic institutions* placed under the *guaranty of their respective constitutions, and deemed essential to their safety and happiness.*"

State magistrates are not compelled to perform it, but that it properly belongs to the officers appointed by the Government of the United States. Well, sir, what is the character of this duty, and by whom should it be performed? By your laws as they now exist, by the judges of the United States. In every State they have the power to exercise it. Who else can be constitutionally qualified for its performance? Who but a judge of the United States, holding his office by the independent tenure of a judge, as prescribed by the constitution, can perform this judicial duty?

Without concluding, Mr. BALDWIN gave way to an adjournment.

WEDNESDAY, *April* 3, 1850.

Mr. BALDWIN resumed and concluded the speech, as follows:

Mr. President, when I last addressed the Senate on the topics involved in this debate, which has since been so painfully interrupted, I was commenting on the imputed aggressions of the non-slaveholding States, and, among others, on the charge implied by the report of the Committee on the Judiciary, that they had wrongfully refused to aid by legislation in the reception of fugitive slaves. Having repelled, successfully, as I believe, the imputation that my own State had been unfaithful to any obligation imposed by the constitution, and shown that, by the decision of the highest judicial tribunal in the land, no duty whatever in relation to such fugitives rested on the States, I was considering the question: By whom and in what manner the duty imposed by the Constitution ought to be performed? I had stated, but without discussing the proposition, that it pertained exclusively to the courts or judges of the United States, holding their offices by the independent tenure prescribed by the Constitution. This will appear, I think, very clearly, by a comparison of the two clauses in the Constitution that have been referred to in the debate, relative to fugitives from justice, and fugitives from service. The first is in these words:

"A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime."

The object of the demand by the Executive of a State, under this clause of the Constitution, is to obtain the surrender of a person charged with crime, who has fled from justice, in order that he may be remanded for trial to the State from which he fled, and which alone can have jurisdiction of his offence. It contemplates no trial, of course, in the State where the fugitive is arrested, nothing beyond the simple inquiry necessary to ascertain, preliminarily to his surrender, that he is in truth a fugitive from justice, duly charged with crime in the State from which he fled. On the ascertainment of these facts, he is surrendered by the Executive, and not by the judicial tribunals of the State.

The clause relative to fugitives from service, on the contrary, has a totally different purpose. Its language is this:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

The fugitive from labor is not pursued or claimed for the purpose of remanding him for trial in any other State. He is not required as an offender who has fled from justice, to be tried in the jurisdiction from which he has escaped He is pursued, if a slave, on a claim that he is the property of the claimant, whose delivery to his absolute control he has a right to demand at the place where the fugitive is found. The proceeding, therefore, whatever it may be, in that jurisdiction, having for its object the surrender of the person of the alleged fugitive to the claimant, as property, is necessarily final. The moment the surrender is made, the control of the claimant over the person of the fugitive is complete and absolute. This clause in the Constitution has reference only to those classes of servants who, by the laws of any State, owe service which they are compellable by personal restraint to render to him to whom it is due. It includes not merely slaves, but apprentices also, who are subject to the personal control of their masters during the period of their apprenticeship. It relates only to persons who escape from the State under whose laws they are held in involuntary servitude into another State. It provides that a fugitive shall not be discharged from such service by reason of any law or regulation in the State to which he may flee; in other words, that he shall still be held to service under the laws of the State from which he escaped, and shall be delivered up for that purpose.

The effect of the clause is, therefore, to give extra-territorial force to the laws of that State over the fugitive, and to deprive him of the benefit of the law of the State to which he has fled, if there be one, or, if not, of the law of Nature, which would otherwise govern, prohibiting slavery. His escape from his former domicil is regarded as a *wrong*, from which he is precluded as a wrong-doer from taking benefit.

The party to whom his services are due may, according to the decision of the Supreme Court, under this clause of the Constitution, pursue and reclaim him, first, by simple recaption, without warrant; or, second, by a judicial claim preferred to the competent authority for the delivery of the fugitive. "A claim," said Judge Story, in giving the opinion of the court in the case of Prigg *vs.* Pennsylvania, "in a just juridical sense, is a demand of some matter of right made by one person upon another to do or to forbear to do some act or thing as a matter of duty." If, on an arrest being made in pursuance of such a claim, the person seized as a fugitive alleges that he is free, his allegation is in accordance with the presumption of law; for the law in every free State, where slavery does not exist, presumes that every man within the limits of its jurisdiction is a freeman, until the contrary is established by evidence. The case, then, constitutes, in the language of the Supreme Court, a controversy between the parties, arising under the Constitution of the United States, within the express delegation of judicial power given by that instrument. "It is plain," says Judge Story, "inasmuch as the right is a right of property, capable of being recognized and asserted by proceedings before a court of justice, between parties adverse to each other, it constitutes in the strictest sense a controversy between the parties, arising under the Constitution of the United States, within the express

'delegation of judicial power given by that instru-
'ment." It is a question involving on one side a mere claim of property; on the other, human liberty—a right of inappreciable value, which is to be, in effect, finally decided by the result of the investigation. It cannot be assumed in the first instance, that the person thus seized is a fugitive, or that he ever was a slave. These facts, which lay at the foundation of the jurisdiction of the tribunal, and are necessary for its action, must be judicially established by evidence satisfactory to the judge. The inquiry is not, as in the case of the fugitive from justice, for the purpose of remanding him for trial to another jurisdiction. It is for the purpose of delivering him up to the claimant as property, to be removed at his pleasure, to his former residence, or to a slave market, to be sold among strangers into hopeless slavery. Surely, before this can be done under the Constitution of the United States, in a State where the person arrested is presumed to be free, it must be satisfactorily proved that he is a fugitive from another State, and that he owes involuntary service under its laws to the claimant. The decision is, in effect, final and without appeal.

How, then, can it be said, with propriety, that this is a case in which anything short of full proof will answer the requirements of justice? Has not the man who is seized in a free State as a slave, but who claims to be a freeman, a right, before he shall be withdrawn from his own jurisdiction, from a region where he is surrounded by his friends, who can prove his title to freedom, to have a full trial before a competent tribunal, which shall ascertain the facts in controversy by unquestionable evidence? Is he to be surrendered up to perpetual slavery upon a mere *ex parte* affidavit of the claimant? What is there to distinguish this case, except in its greater magnitude, from any other investigation before judicial tribunals where there are conflicting claims? These two persons, in the free State where the proceedings are held, stand upon equal ground at the outset of the investigation. The alleged fugitive stands there as a freeman, and with the rights of a freeman, until he is proved to have been a slave. How, then, can the court discriminate between the claimant and him whom he has seized, and say that anything short of full and entire proof shall be enough to authorize his transportation beyond the limits of the State to which he claims to belong?

Sir, the difficulties growing out of this great question are intrinsic and inevitable; they are increasing as slavery is abolished in one State after another. When the act of 1793 was passed, nearly all the States of this Union were slave States. In many of them every man of color was presumed to be a slave. When brought before a tribunal for the purpose of investigation, he appeared before that tribunal with every presumption against him; but now, one State after another having abolished the system of slavery which then prevailed, he stands before the tribunal before which he is arraigned, as a freeman, and as such is entitled to all the rights and to all the privileges that pertain to freemen before any tribunal, until the contrary is established. Were it not, sir, for this clause in the Constitution, a slave escaping from a slave State to a State where slavery did not exist could not be pursued and recaptured at all, because the free State, when not bound by any such provision as exists in our Constitution, would be under no obligation, by any law of comity, to give extra territorial force to the laws of the State from which the fugitive escaped. He would be discharged by the simple operation of the law which there prevailed, making every man equal to every other man. If there were no positive law prohibiting slavery, the law of nature remaining unrepealed would fix the relations of every individual within the territory. The Constitution, then, for this single purpose of the recovery of the fugitive slave, overrides the local law of freedom, and, by giving extra territorial force to the laws of the State from which he fled, authorizes his recaption. It also assumes the duty of judicially surrendering him upon the claim of the party to whom his services are due, when established by proper evidence before its tribunals. It is a case, then, arising wholly under the Constitution of the United States, since, but for that clause in the Constitution, no such claim could be made or pursued in a free State. No State court could have entertained jurisdiction, as such, of an application to restore a fugitive slave. The courts of a free State could not apply the rule of comity to the laws of a foreign State contravening its own policy; and, notwithstanding the clause in the Constitution, if a slave be brought voluntarily into the jurisdiction of a free State, and there escape, no remedy whatever exists for his recovery. The claim of the party in a free State is *strictissimi juris*. The presumption, in the first instance, is always against its validity, and it must be clearly established in order to subject the individual seized to the disabilities under which he is placed by the Constitution. We have then, sir, presented in a free State a controversy between parties who are, till the contrary is shown by evidence, presumed to be of equal rights; the object of the claim is, by the judgment of a judicial tribunal, upon evidence, to degrade one of them to the condition of a chattel, and cause him to be delivered up to the absolute power of the other.

Let it be assumed, then, in accordance with what is really the presumption of law, or, in other words, what the law itself assumes, that the person claimed is a freeman—a citizen of a free State, and entitled to protection as such—what tribunal is he entitled to demand to enable him to maintain his rights? Does the Constitution of the United States authorize a postmaster appointed by the Postmaster General, a collector, a commissioner even, to settle this important question—a question of far greater magnitude than any that can be brought before our judicial tribunals, affecting property merely? Is it right or safe, that high judicial duties of this sort should be imposed on the subordinate executive officers of the Government—officers who are not selected with any view to their competency to perform them? Or is not every individual thus seized entitled to have his case tried and heard before the ordinary judicial tribunals of the land—before independent judges, who are appointed for the administration of justice in all controversies coming within the jurisdiction of the judicial power of this Government? If it be true, as the Supreme Court have declared it to be, that these controversies arising under the Constitution are within the express delegation of the judicial power, upon what ground is it claimed that any portion of this power can be vested in persons who are not appointed in the constitutional mode

for the exercise of judicial functions? In the case of Martin & Hunter, decided as early as the first Wheaton's Reports, the Supreme Court of the United States "held that it was the duty of Con-'gress to vest the whole judicial power of the Uni-'ted States, in courts ordained and established by 'itself." The remark, it is true, was subsequently qualified, and confined to that judicial power which is exclusively vested in the United States. It has been shown that the power now in question is exclusively vested in the United States, and does not pertain to the State governments or their tribunals in the free States. In the case of Houston *vs.* Moore, in the 5th of Wheaton's Reports, Judge Washington, who gave the opinion of the court, disclaimed the idea that Congress could authoritatively bestow judicial powers on State courts and magistrates; and it was held to be perfectly clear that Congress cannot confer jurisdiction upon any courts but such as exist under the Constitution and laws of the United States, though the State courts may exercise jurisdiction in cases authorized by the laws of the States, and not prohibited by the exclusive jurisdiction of the Federal courts. This decision of the Supreme Court was in conformity with a decision which had been previously made by the high Court of Delegates in the State of Virginia. How then, I ask again, consistently with these decisions, and with the express provision of the Constitution "that the judicial power 'of the United States shall be vested in one Su-'preme Court, and in such inferior courts as Con-'gress may from time to time establish, whose 'judges shall hold their offices during good beha-'vior, and shall receive a compensation that shall 'not be diminished during their continuance in of-'fice"—how can it be claimed that the judicial power can be vested in any other officers than the courts or judges so appointed?

On the other hand, if this be not a judicial power, it cannot be imposed by Congress on the courts or judges of the United States. As early as 1791 Chief Justice Jay and Judges Cushing and Duane, in considering an act of Congress imposing certain ministerial duties on the courts of the United States, unanimously declared their opinion "that neither the legislative nor the executive branches can constitutionally assign to the judicial any duties but such as are properly judicial, and to be performed in a judicial manner." In 1792 Judges Wilson, Blair and Peters addressed a letter of similar import to President Washington. Judges Iredell and Sitgreaves also protested in an elaborate opinion against the attempt. The duty under this clause in the Constitution providing for the delivery of fugitives from service is of the same character, and is to be administered in the same way as if it were stipulated in a treaty with a foreign Power. It was under a clause in our treaty with Spain stipulating for the custody and safe delivery of merchandise coming into our ports under peculiar circumstances, to the Spanish owner, that the claim was made in our courts for the surrender of the Amistad negroes. By the treaty, if they were merchandise, as they were claimed to be by the Spaniards, who had put them on board of the Amistad in Cuba, and from whose possession and control they had escaped by a successful revolt, the Government of the United States was bound, through its judicial tribunals, to deliver them up to their claimants. But the Africans insisted that they were not merchandise—that they were freemen. They stood before our tribunals upon an equal footing with the claimants. They had a right to insist that their claimants, when they called on the courts of the United States to reduce to slavery men who were apparently free, must show some law, having force in the place where they were taken, which made them slaves; or that the claimants were entitled in our courts to have some foreign law, obligatory on the Africans as well as on the claimants, enforced in respect to them; and that by such foreign law they were slaves.

It appeared most satisfactorily by the evidence, that they were kidnapped Africans, recently imported into the Island of Cuba, in violation, not only of their own rights, but of the laws of Spain abolishing the slave-trade. The Supreme Court held, that if they were at the time lawfully held as slaves under the laws of Spain, and recognized by those laws as property capable of being bought and sold, they were, within the intent of the treaty, included under the denomination of merchandise, and as such ought to be restored to the claimants; for upon that point, say the court, the laws of Spain would seem to furnish the proper rule of interpretation. "But admitting this," Judge Story proceeds, "it is clear in our opinion that neither of the other essential facts and requisites has been established by proof; and the *onus probandi* of both lies upon the claimants, to give rise to the *casus fœderis*." "It is a most import-'ant consideration, that supposing these African 'negroes not to be slaves, but kidnapped free ne-'groes, the treaty with Spain cannot be obligatory 'on them, and the United States are bound to re-'spect their rights as much as those of Spanish 'subjects. The conflict of rights between the 'parties, under such circumstances, becomes posi-'tive and inevitable, and must be decided upon the 'eternal principles of justice and international 'law. If the contest were about any goods on 'board of this ship, to which American citizens 'asserted a title, which was denied by the Spanish 'claimants, there could be no doubt of the right of 'such American citizens to litigate the claim be-'fore any competent American tribunal, notwith-'standing the treaty with Spain. *A fortiori* the 'doctrine must apply when human life and human 'liberty are in issue, and constitute the very es-'sence of the controversy." Such, with the single exception of Mr. Justice Baldwin, of Pennsylvania, who dissented, was the unanimous opinion of the Supreme Court of the United States.

The inquiry then was, before the court, sitting as a Court of Admiralty, in regard to the truth and foundation of the claims of these Spaniards, who insisted that the Africans who had been in their custody as slaves, were really slaves by the law in force in Cuba. The Supreme Court decided, and properly decided, that here—there being no treaty of extradition by which they could be demanded by the Spanish Government as criminals; but only a stipulation for their delivery as merchandise, if they were really such—the fact must be established before our tribunals by satisfactory evidence, and that the duty was necessarily devolved upon the court to inquire into the existence and obligatory force upon the parties of the Spanish laws which they respectively asserted and denied.

But it is asked, "Why not send back these persons to the State from which they are alleged to have escaped, and let the inquiry be made there? Have you no confidence in the tribunals of those States under whose laws they are claimed to be held in servitude?" It is not a question, sir, whether there is confidence in those tribunals or not. The question is one affecting the liberty of an individual who has a right to remain where he is, and to assert his freedom in the State where he happens to be, until his right is disproved by evidence. But he is not demanded for trial. He will have no trial if delivered to the claimant. If he is in truth a freeman, and known to be so by his pursuer, he surely will never be taken to any State where he can have the benefit or opportunity of another trial. He will be sold into some remote part of the country, where he will be surrounded by no friends who can aid him in establishing his claim to freedom, where no evidence will be attainable to sustain it, where every presumption would be that he is a slave, and where, in addition, the certificate of the post-master or collector accompanying the sale would, in all probability, be deemed quite sufficient to doom him to hopeless bondage. It has been said by a humane judge that it is better that ninety-nine guilty persons should escape punishment for their transgressions than that one innocent man should suffer unjustly. If that be so in regard to those who are charged with crime, with how much more propriety may it be said that it is better that ninety-nine bondmen held in involuntary servitude should escape than that one freeman should be made a slave, or one free woman be surrendered up to the uncontrolled will of a master.

If, sir, it be so important in the free States to have an independent judicial tribunal to settle this question, why is it not equally so in other States, where every colored man is presumed to be a slave?

Suppose that a freeman from the State of Connecticut—and the case has actually occurred—pursuing his lawful business as a mariner, goes into one of the ports of South Carolina, and is there seized, not because he has committed or is suspected of any crime, but for the mere color of his skin, and imprisoned. The master of the vessel refuses to pay the jail fees that are endeavored to be extorted from him, and leaves the unfortunate freeman incarcerated in a jail, from which he has no hope of deliverance until he is sold as a slave, under the statute law of South Carolina, for the payment of his jail fees. Suppose this free citizen thus sold into slavery to have succeeded in escaping, and to have found his way into another State, and to be there pursued by the person who bought him as a slave. Will not that freeman be entitled to have the question of his freedom tried where he is seized, before a tribunal competent to decide it? Must he submit to the decision of some inferior executive or ministerial officer, in a state where, perhaps, a similar law exists, and who would of course recognize the validity of the sale? No, sir, he has a right to demand of the Government of the United States, who have volunteered in the performance of this duty, that they shall give him an opportunity of asserting his rights before a competent judicial tribunal, where he shall have the same measure of justice to which every free citizen is entitled. Sir, this is no hypothetical case. Many years ago I received a letter from a gentleman, now a distinguished officer in the service of the United States, then residing in Louisiana, enclosing a commission to take testimony to prove the freedom of one of my own townsmen, who, prosecuting a lawful voyage as a mariner, arrived in the port of Charleston, and was there seized, imprisoned, and sold as a slave, and had been taken by his purchaser to the slave market of New Orleans. He had named a person in Connecticut who could prove his freedom. He was a native of the State of New York, but had sailed voyage after voyage from New Haven. The commission was sent to obtain the evidence necessary to establish his freedom. I believe he was ultimately liberated through the humane exertions of this gentleman, who interested himself in his behalf.

But, sir, what a feeble chance would a negro, unprotected, under these circumstances, have of escape, in a foreign jurisdiction, hundreds of miles distant from the place of his residence, surrounded by no friends, and knowing no individual who would volunteer to aid him. Suppose, sir, that this same man, instead of being taken to New Orleans, had been retained by his purchaser in Charleston; and had escaped and found his way on board of some vessel to Connecticut. Suppose he had been there pursued and claimed as one held to involuntary servitude under the laws of South Carolina; is he to be sent back to South Carolina for trial? Would he be likely to get justice there? to obtain deliverance from those who were appointed to administer the very laws under which a free citizen had been sold into slavery—laws which were passed and have been continued in disregard of the constitutional obligations of the State toward the citizens of other States? No, sir, if that man had returned to Connecticut, and when there, in the bosom of his own family, had been pursued and seized, he would have been entitled, before he could have been taken from that State, to a trial of his right before some judicial tribunal competent to administer justice, under all the forms and solemnities, and upon all the substantial requirements of evidence ever required in courts of justice.

This law of South Carolina was enacted long anterior to any of the imputed aggressions by the free States on the rights of the South. I find, sir, in Niles's Register, under the date of September, 1823, an opinion delivered by Judge Johnson, then a distinguished Judge of the Supreme Court of the United States, a native of South Carolina, in the case of a British colored seaman who had been seized and imprisoned under this law, in which he says, in regard to its "unconstitutionality, it is 'not too much to say it will not bear an argument; 'and I feel myself justified in using this strong lan-'guage from considering the course of reasoning by 'which it has been defended."

Mr. Wirt, then Attorney General of the United States, whose opinion in regard to the constitutionality of the South Carolina law was required by the President, in consequence of the remonstrance of the British Government, who complained of it as in violation of the treaty, declared it to be unconstitutional, in terms equally decisive. That law, sir, is in these words:

"*And be it further enacted by the authority aforesaid*, That if any vessel shall come into any port or harbor of this State,

from any other State or foreign port, having on board any FREE negroes or persons of color, as cooks, stewards, or mariners, or in any other employment on board of said vessels, such FREE negroes or persons of color shall be liable to be seized and confined in jail until said vessels shall clear out and depart from this State; and that when said vessel is ready to sail, the captain of said vessel shall be bound to carry away the said free negroes or persons of color, and pay the expenses of his detention; and in case of his neglect or refusal so to do, he shall be liable to be indicted, and, on conviction thereof, shall be fined in a sum not less than one thousand dollars, and imprisoned not less than two months; and such FREE negroes or persons of color shall be DEEMED AND TAKEN AS ABSOLUTE SLAVES and SOLD in conformity to the provisions of the act passed on the 20th day of December, eighteen hundred and twenty, aforesaid."

Yes, sir, such FREE negroes and persons of color "shall be deemed and taken as *absolute* 'SLAVES, and sold in conformity to the provisions 'of the act passed on the 20th day of December, '1820, aforesaid." This is the law of the State of South Carolina—a State which has so loudly complained of the northern States for the non-fulfillment of the duties imposed upon them by the Constitution in regard to the surrender of fugitives from slavery. But, sir, this is not all. The State of Massachusetts, a few years since—in the year 1844, if I recollect right—desirous of testing the validity of this law, so injurious and oppressive to her citizens engaged in commerce and navigation, sent one of her most respected and estimable citizens, a gentleman of high-bred courtesy and honorable deportment, a lawyer of eminence at the Massachusetts bar, who had been distinguished as a member of the Congress of the United States—to South Carolina, for the purpose of adopting the proper measures to enable her to vindicate before the Supreme Court of the United States, the claims of her free colored citizens to the protection guaranteed to them by the Constitution. On his arrival at Charleston, he communicated in respectful terms to the Governor of that State the object of his mission; and within a day or two after, in pursuance of the spirit, if not in accordance with the direction, of some act or resolution passed by the General Assembly of the State, he was driven, under threats or intimations of violence if he remained—from her limits, accompanied by his accomplished daughter, a descendant of one of the fathers of this Republic, who signed the Declaration of Independence, and was an active member of the Convention that framed the Constitution.

But, sir, this is not all. The legislation of that State shows that they were unwilling to trust not merely the Supreme Court of the United States to decide upon the constitutionality of this law; they dared not risk the question before the tribunals even of South Carolina herself. They actually passed a law, after the expulsion of Mr. Hoar, depriving the poor free colored men, imprisoned under this law, of the writ of *habeas corpus!* Here it is:

AN ACT of South Carolina, December 18, 1844.

Be it enacted by the Senate and House of Representatives &c., That no negro or free person of color, who shall enter this State on board any vessel as a cook, steward, or mariner, or in any other employment on board such vessel, and who shall be apprehended and confined by any sheriff, in pursuance of the provisions of said act, shall be entitled to the WRIT OF HABEAS CORPUS, or any benefit under and by virtue of the statute made in the kingdom of England, in 31 chap. 2, entitled "An act for the better securing the liberty of the subject and to prevent imprisonment beyond seas," and made of force in this State: and the provisions of the said *habeas corpus* act, and the several acts of Assembly of this State, amendatory thereof, are hereby declared not to apply to any free negro or person of color entering into this State contrary to the provisions of the aforesaid act of Assembly, passed December 19, 1835.

In the same spirit of aggression upon northern rights and the rights of northern freemen, and to prevent the possibility of their obtaining redress through the courts either of the Federal Government or of the State, another act was passed on the same day, which subjects to banishment, and such fine and imprisonment as may be deemed fit by the court which shall try the offender, any person who, on his own behalf or under any commission or authority from another State, shall come within the limits of South Carolina for the purpose, or with intent to disturb, counteract, or hinder the operation of the laws or regulations passed, or which shall be passed, in relation to slaves or free persons of color, &c.

Thus, it will be seen, are these free colored citizens of the northern States—unconstitutionally imprisoned in the jails of South Carolina—not only deprived of the right of resorting to the courts of the United States by the intervention of others in their behalf, but the writ of *habeas corpus* before the tribunals of the State is also denied them. And, as if this were not enough, these unhappy men, guiltless of crime save the color of their skin, when thus deprived of all opportunity of deliverance by law, if they are not taken away by others, and have not the means of paying the extortionate demand for their own illegal custody, are to "be deemed and taken to be SLAVES and SOLD" to pay for the expenses thus incurred!

I will not trust myself, Mr. President, to characterize this law, and I deeply regret that such a one should be found on the statute books of any of these States. Sir, whom does it affect? Citizens of the free States of this Union; men as much entitled to the rights of citizens as are men of any other color or complexion whatever. Sir, when the constitution of the United States was framed, colored men voted in a majority of these States. They voted, sir, in the State of New York, in Pennsylvania, in Massachusetts, in Connecticut, Rhode Island, New Jersey, Delaware and North Carolina, and long after the adoption of the Federal Constitution they continued to vote in the good old State of North Carolina, and in Tennessee also But, sir, the right of voting is not essential to citizenship. The free colored inhabitants of the United States are by the Constitution as much the basis of representation as any other citizens. The Constitution of the United States makes no discrimination of color. There is no word "white" to be found in that instrument. All free people then stood upon the same platform in regard to their political rights, and were so recognized in most of the States of this Union. How, then, is it that one of these States ventures to assail the rights of citizens of other States thus sacredly guarded by the Constitution?

Mr. BADGER. With the permission of the Senator, I would ask whether free black persons are allowed to vote in Connecticut now?

Mr. BALDWIN. Mr. President, they are not; but they are none the less citizens than if they were allowed to vote. They vote in all the New England States except Connecticut, and, in my judgment, they ought to be allowed to vote there also; and when the proposition was made not long since for an amendment of the constitution of Connecticut to enable them to vote, I deposited my

ballot in favor of the right. I should do so again if the opportunity occurred. I hold, sir, in regard to the political rights of freemen, whatever may be true in reference to their social position, which will regulate itself, there should be no distinction of color. But, Mr. President, they are not only citizens of the free States, but they are citizens of the State of Virginia to this day, as much as they are in the State of Connecticut. I hold in my hand the statute of the State of Virginia, passed December 23, 1792, prescribing the qualification of citizenship. It provides that:

"All free persons born within the territory of this Commonwealth, all persons, not being natives, who have obtained a right to citizenship under former laws, and also all children, wheresoever born, whose fathers or mothers are or were citizens at the time of the birth of such children, shall be deemed citizens of this Commonwealth until they relinquish that character in the manner hereinafter mentioned."

It is a little curious to examine the history of this law of the State of Virginia. It will be recollected by Senators that one of the articles of the old Confederation (article fourth) was in these words:

"The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and egress to and from any other State, and shall enjoy," &c.

On the 25th of June, 1778, the delegation from South Carolina moved in Congress to amend that clause in the articles of Confederation by inserting the word "white" between the words "free" and "inhabitants." The question was taken, and there were found to be ayes two, noes eight. So that the article remained as it was originally adopted. In 1779, before the articles of Confederation had been ratified by a sufficient number of States to make them binding, the State of Virginia passed an act prescribing the qualifications of citizens, and inserted the word "white."

In 1783, after the adoption of the articles of Confederation, Virginia repealed that act, and passed another, in which she omitted the word "white," and left her law standing in that respect substantially as it has remained upon her statute book from that day to this, showing that the State of Virginia, though concurring at that time with South Carolina in the desire to insert the word "white," yet respected the decision of Congress, and the States in the adoption of the articles of Confederation, and conforming her own law thereto, extended the privileges of citizenship alike to all, without distinction of color. And to this day, in the State of Virginia, free colored persons, born in that State, are citizens.

Why, sir, who ever doubted that colored inhabitants were citizens of the United States within the provisions of the judiciary act authorizing citizens of one State to sue before the Federal courts in another State? Who ever doubted that a free colored inventor was entitled to the benefit of the patent law, or a colored author of the privilege of copyright, as citizens of the United States? Who ever doubted that colored citizens, owning and navigating vessels of the United States, were entitled to all the privileges conferred by law upon vessels owned by citizens of the United States? They take the oath of citizenship under the act of February, 1793, for enrolling and licensing American vessels. Who ever questioned their right? Are not colored seamen entitled to protection under your laws authorizing the granting of protection to citizens of the United States who are serving as mariners on board your vessels? Why, sir, the form of the protection is in these words:

"That the said E. F. is a citizen of the United States of America."

Are they not citizens within the meaning of the act of May, 1820, making it criminal for citizens of the United States to engage in the slave trade? Are they not citizens within the act forbidding licenses to carry on trade with the Indians to any but citizens? Are they not within the protection of our treaties, as citizens of the United States, in regard to any property they may own? And are they not under the obligations imposed by treaty on our citizens? Are they not within your bill of rights, in the Constitution which was adopted by their votes, securing the liberty of speech and the liberty of the press, and all the other personal rights, to the people of the United States? It seems to have been supposed by some Senators, that, in order to make a man a citizen, he must have a right to vote in the State in which he claims to be a citizen. Why, sir, are not females in all our States citizens of the United States? They do not vote. There are States in which naturalized citizens of the United States are not entitled to vote until they have acquired property qualifications to a certain amount, even though native citizens are not required to possess those qualifications. Such is the provision in the constitution of Rhode Island; and a similar provision, I believe, is contained in some other State constitutions.

Again, it seems to have been supposed by some Senators that the claim is, because a man is entitled as a citizen of one State to all the rights and privileges of a citizen of every other State, that if he is a voter in one State, he has therefore a right to exercise the privilege of voting when he removes to another State. That does not follow at all. When he removes to another State and changes his domicil, he loses all claim arising out of his citizenship in the State which he has left. He becomes a citizen or inhabitant of the State to which he has removed, and subjects himself, of course, to its local policy. As an inhabitant of the State to which he has removed, he is not in a condition to claim to exercise the federal rights which pertained to him when a citizen of another State. These rights are to be enjoyed only by those who remain citizens of other States than those in which they may have occasion to exercise them.

Mr. Hamilton, on the 1st of April, 1783, moved an amendment to the articles of Confederation, "that the Treasury should be supplied in proportion, &c. to the whole number of *white and other free citizens*," which was adopted by all the States except Rhode Island.

The act of Congress of 28th February, 1803, prohibits the bringing of any negroes or other persons of color, not being a native, a *citizen*, or registered seamen of the United States, into any of the ports of the United States. I have mentioned that by the law of the State of Virginia, as it now exists, free colored persons are citizens. By the charter of the city of Alexandria, at the time of the cession of that county to the United States as a part of the District of Columbia, all male citizens

possessing certain qualifications had the right to vote, and among others persons of color.

But I will spend no more time upon this part of the argument. Enough surely has been said to show that the free colored citizens of the northern States are entitled by the Constitution to all privileges and immunities of citizens in the several States to which they may have occasion to go. The law of Virginia, I may remark, was in force at the time of the adoption of the Constitution, and doubtless the discussions which led to the change of the Virginia law of 1779 were fresh in the recollections of the actors in the political scenes of that day. I think then, Mr. President, it will hardly be expected that the decision of any inferior local tribunal, acting under the laws of those States which thus disregard the federal rights secured by the Constitution to all the free citizens of the other States, would be deemed satisfactory upon a question of human liberty, to which a colored citizen of a free State seized as a fugitive slave might be a party. I think, sir, that the safety of this class of citizens demands that the question should be heard and decided by the permanent judicial tribunals of this Government. If I am right in the views I have taken on this subject, then the bill proposed by the Committee on the Judiciary certainly ought not to be adopted by Congress, because it attempts to impose judicial duties on those whose offices neither qualify nor authorize them to exercise functions of that sort, and who are not appointed in the mode prescribed by the Constitution for those who are to exercise the judicial power. But if these are not judicial duties, if this is not an exercise of judicial power, then, I ask again, by what authority is it attempted to be conferred on the judges or the courts of the United States?

On the whole, Mr. President, it appears to me that all that is needed upon this subject of fugitive slaves, is to amend the existing act of Congress so as to confine the exercise of the powers conferred to the judges or courts of the United States, and to secure to those who allege themselves to be free the advantage of an impartial jury to aid the courts in the ascertainment of facts.

With regard to other grievances which have been complained of, I do not propose at this time to examine them at large. The burden of the complaint, however, seems to be that petitions have been sent here from time to time by great numbers of individuals in the northern States who are desirous that Congress shall exercise all its constitutional powers in relation to the abolition of the slave-trade here, and of slavery wherever the jurisdiction of Congress may extend. Well, sir, what then? Is this any interference with the rights of any State? Is it any grievance of which the people of any State can complain, if these petitioners confine their request to the action of Congress, where Congress has the entire and exclusive power of legislation? Senators may not be willing to grant these petitions; but have they any right to say that they or their constituents are aggrieved by their presentment? Sir, I have long entertained the opinion that, if southern gentlemen had been united in the desire that all agitation on this subject should cease, they would have listened to the petitions of the people of this District, who have repeatedly asked for legislation in regard to the slave-trade and slavery here. As long ago as 1802, the traffic in slaves carried on in the city of Alexandria was attended with so many attrocities as to cause a presentment of it by a grand jury as a grievance demanding legislative redress. A judge of the circuit court in this city spoke of it in 1816, in a charge to the grand jury, as shocking to the feelings of all humane persons. And a petition for the suppression of the slave-trade, and for the adoption of measures for the gradual abolition of slavery, was presented to Congress by more than a thousand of the inhabitants, comprising a majority of the property-holders in the District, in 1828. Had the prayer of these petitioners been listened to, not only would the sickening scenes, of which the petitioners complained as so painful to the feelings of the people of the District, have been long since at an end, but the plan they recommended for the gradual abolition of slavery in the District would by this time have brought the system very nearly to an end, in the very way that it has been accomplished in nearly all the States which have hitherto abolished it.

Complaints have been made that people from other parts of the country have petitioned, as well as the people of the District, who alone, it is said, are concerned. Is it at all surprising that they have done so, when they have seen with what neglect the petitions of the residents of the District have been treated by Congress—when they witness the continuance, unchecked, of a system to which they are in principle opposed, and for which, in common with the rest of the people of the United States, they feel that they are in some measure responsible?

I will not, Mr. President, occupy further the time of the Senate in this discussion. I will only say, in conclusion—and I say it with great deference to the opinions of others—that there is, in my opinion, but one course to be pursued to calm the agitations that now surround us, and prevent their recurrence. It is to place ourselves firmly on the platform of the Constitution, adhering faithfully to its compromises, and administering, in the spirit which animated our fathers, and in the light of their admonitions and example, the powers confided to us by the people. No compromises of principle are required for our security. No sectional concessions should be asked, or expectations encouraged; but even-handed justice secured to all. Pursuing such a course, I fear no danger to the Union. Its foundations are too deeply laid in the interests and affections of the people, and in their cherished recollections of the past, to be easily disturbed. It is emphatically their government; and its powers, though wisely and carefully limited, are amply sufficient, if beneficently directed, to lead us to a higher degree of national glory and happiness than has fallen to the lot of any other people.

Let us, then, be just and faithful to the Constitution, and fear not; acting on every question, as it is presented, in a spirit of patriotism, justice, and firmness. And whatever may be the result of our deliberations, if there be any who for such a cause are ready to cry out disunion, and encourage the formation of sectional combinations to promote it, they have only to turn their eyes in any direction to see the hand-writing on the wall, in characters which cannot be mistaken, to warn them to beware.

SPEECH OF MR. CHASE, OF OHIO,

ON MR. CLAY'S COMPROMISE RESOLUTIONS.

IN SENATE, MARCH 26, 1850.

The Senate having under consideration the resolutions submitted by Mr. CLAY—

Mr. CHASE. I rise, Mr. President, with unaffected diffidence, to offer to the Senate my views of the important questions presented by the resolutions of the honorable Senator from Kentucky.

Coming from the private walks of life, without the advantage of previous public position, and without experience in legislative debate, I speak from no eminence which will entitle me to command attention. I claim for what I say that consideration only which is due to sincerity of belief, to directness of purpose, and to whatever force of agument I may be able to bring to the support of my positions.

It has been said, Mr. President, and said in a tone of complaint, by Southern gentlemen, that this Government is rapidly becoming a mere Government of the majority—becoming a great consolidated democracy. Now, sir, if by this it be meant that this Government of ours has become, or is to become, the Government of the American people, administered in conformity with the will of a majority of the people—if it be meant that the democratic principle is carried, or is likely to be carried, into practical application in its administration and legislation, I see in the fact, if fact it be, no ground of complaint, but rather ground of congratulation and satisfaction. Why, sir, what is this democratic principle? Equality of natural rights, guarantied and secured to all, by the laws of a just popular Government. For one, I desire to see that principle applied to every subject of legislation, no matter what that subject may be—to the great question involved in the resolutions now before the Senate, and to every other question.

But our responsibilities are limited by our powers; and however clear it may be that we are bound by allegiance to democratic principle to condemn, to mitigate, to abolish slavery, wherever we can constitutionally do so, it is equally clear that we are not bound, and that we have no right, to interfere with slavery by legislation beyond the sphere of our constitutional powers.

We have no power to legislate on the subject of slavery in the States. We have power to prevent its extension, and to prohibit its existence within the sphere of the exclusive jurisdiction of the General Government. Our duty, therefore, is to abstain from interference with it in the States. It is also our duty to prohibit its extension into national territories, and its continuance where we are constitutionally responsible for its existence.

Such, Mr. President, is my position; and for the purpose of showing that I am sustained in it by the very highest authority, I propose to review, somewhat at large, the history of this Government in its relations to slavery.

It was said yesterday by the honorable Senator from Virginia [Mr. HUNTER] that the South had no cause of complaint against the North in regard to slavery until the year 1820, the date of the Missouri compromise. However that may be, we must go further back in time, if we wish to trace the controversy between slavery and freedom in this country to its source. We must go two hundred years further back. It was in 1620 that a Dutch ship ascended the James river, bringing the first slaves into Virginia. In that same year the Mayflower brought the Pilgrim founders, of New England to Plymouth Rock. Slavery was introduced into Virginia. Freedom was planted in New England. The contest between the despotic principle—the element and guaranty of slavery—and the democratic principle—the element and guaranty of liberty—commenced.

But slavery was not established in Virginia without remonstrance and resistance. The colonists complained vehemently of the introduction of slaves, and resorted to various expedients of prevention. But the desire of the mother country to benefit the navigator and to stimulate production led the British Government to disregard every complaint, and to negative all colonial legislation against the slave trade. Slaves continued to be imported. The traffic extended to other colonies, until at length slavery obtained a foothold in every one of them. At the breaking out of the Revolution, slaves were held in every colony, from Massachusetts to Georgia.

Well, sir, how was slavery regarded at that period? In September, 1774, the first Congress of the colonies met in Philadelphia. Had the opposition to slavery which had been previously manifested, and the desire for its extinction which had been so generally cherished, now become extinct? A decisive answer to this inquiry may be found in an extract from a singularly able exposition of the Rights of British America, prepared by Mr. Jefferson, and laid before the Convention of Virginia, which assembled in August, 1774, for the purpose of appointing delegates to the proposed Congress. I will read this extract:

"*The abolition of domestic slavery* is the GREATEST OBJECT of desire in these colonies, where it was unhappily introduced in their infant state. But, previous to the enfranchisement of the slaves, it is necessary to exclude further importations from Africa. Yet our repeated attempts to effect this by prohibitions, and by imposing duties which might amount to prohibition, have been hitherto defeated by his Majesty's negative; thus preferring the immediate advantage of a few African corsairs to the lasting interests of the American States, and the rights of human nature, deeply wounded by this infamous practice."—*Am. Archives, 4th series, vol. 1, p. 696.*

The Congress, which soon after assembled, shared these sentiments. Among its first acts was the framing of the celebrated Articles of Association which composed the Non-Importation, Non-Exportation, and Non-Consumption Agreement. I will read the second of those Articles:

"That we will neither import nor purchase any slave imported after the first day of December next, after which time we will wholly discontinue the slave trade, and will neither be concerned in it ourselves, nor will we hire our vessels, or sell our commodities or manufactures, to those who are concerned in it."—*Am. Archives, 4th series, vol. 1, p. 914.*

There was another article in this agreement, which I will read:

"Art. 14. And we do further agree and resolve that we will have no trade, commerce, dealings, or intercourse whatever, with any colony or province in North America which shall not accede to or which shall hereafter violate this association, but will hold them as unworthy of the rights of freemen, and as inimical to the liberties of this country,"—*Am. Archives, 4th series, vol. 1, p. 915.*

Well, sir, this solemn covenant, thus pledging every colony and every citizen to an entire abandonment and suppression of the slave trade, was signed by every delegate in Congress, Southern and Northern. Public sentiment on this subject was then unanimous, or next to unanimous, throughout the country. Among these signers we find the names of Rodney, McKean, and Read, of Delaware; Chase and Paca, of Maryland; Richard Henry Lee, of Virginia; Hooper and Hewes, of North Carolina; and Middleton, Rutledge, and Lynch, of South Carolina; all of whom subsequently subscribed the Declaration of Independence. We also find the names of George Washington and Patrick Henry.

Now, Mr. President, let it be remembered that these Articles of Association, entered into as a measure for obtaining a redress of grievances from the People and Government of Great Britain, and to the faithful observance of which, in all their stipulations, the delegates of the colonies pledged themselves and their constituencies, "under the sacred ties of virtue, honor, and love of country;" let it be remembered, I say, that these articles constituted the first bond of American Union. The Union thus constituted was, to be sure, imperfect, partial, incomplete; but it was still a UNION, a Union of the Colonies and of the People, for the great objects set forth in the articles. And let it be remembered also that prominent in the list of measures agreed on in these Articles, was the discontinuance of the slave trade, with a view to the ultimate extinction of slavery itself.

I say with a view to the ultimate extinction of slavery, and I have authority for saying so. I ask attention to an extract from the proceedings of a town meeting at Danbury, Connecticut, held on 12th of December, 1774:

"It is with singular pleasure we uotice the second article of the Association, in which it is agreed to import no more negro slaves, as we cannot but think it a palpable absurdity so loudly to complain of attempts to enslave *us* while we are actually enslaving *others*."—*Am. Archives, 4th series, vol.* 1, *p.* 1038.

This was the Northern view. What was the Southern? We find it upon record in the proceedings of the Congress of the Representatives of Darien, in the colony of Georgia. Acceding to the Association, they declared their views in these words:

"We, the representatives of the extensive district of Darien, in the colony of Georgia, being now assembled in Congress, by the authority and free choice of the inhabitants of said district, now freed from their fetters, do resolve."

Then follow several resolutions setting forth the grounds of complaint against the oppressions of Great Britain, closing with the emphatic declaration which I will now read:

"To show to the world that we are not influenced by any contracted or interested motives, but by a general philanthropy for all mankind, of whatever climate, language, or complexion, we hereby declare our disapprobation and abhorrence of the unnatural practice of slavery in America, (however the uncultivated state of our country or other specious arguments may plead for it)—a practice founded in injustice and cruelty, and highly dangerous to our liberties as well as lives, debasing part of our fellow-creatures below men, and corrupting the virtue and morals of the rest, and laying the basis of that liberty we contend for, and which we pray the Almighty to continue to the latest posterity, upon a very wrong foundation. We therefore resolve at all times to *use our utmost endeavors for the manumission* of our slaves in this colony, upon the most safe and equitable footing for the masters and themselves."
Am. Archives, 4th series, vol. 1, *p.* 1135.

That, sir, was the Southern view. At least it was the view of a large and intelligent and influential body of Southern men. And with this understanding of their effects and tendency, the Articles of Association were adopted by colonial conventions, county meetings, and lesser assemblages throughout the country, and became the law of America—the fundamental Constitution, so to speak, of the first American Union. It is needless to cite many resolutions of these meetings. They can be found in the American Archives by those who desire to investigate the subject. I will quote but two.

The first is a resolution of the Convention of Maryland, held in November, 1774, readopted by a subsequent Convention, more fully attended, in December of the same year:

"*Resolved*, That every member of this meeting will, and every person in the province should, strictly and inviolably observe and carry into execution the Association agreed on by the Continental Congress."

The other is the declaration adopted by a general meeting of the freeholders of James City county, Virginia, in November, 1774, in these words:

"The Association entered into by Congress being publicly read, the freeholders and other inhabitants of the county, that they might testify to the world their concurrence and hearty approbation of the measures adopted by that respectable body, very cordially acceded thereto, and did bind and oblige themselves, by the sacred ties of virtue, honor, and love to their country, strictly and inviolably to observe and keep the same in every particular."

These, sir, are specimens of the formal and solemn declarations and engagements of public bodies. To show the sentiment which pervaded the masses of the people, I will read an extract from an eloquent paper, entitled "Observations addressed to the People of America," printed at Philadelphia in November, 1774:

"The least deviation from the resolves of Congress will be treason; such treason as few villains have ever had an opportunity of committing. It will be treason against the present inhabitants of the colonies, against the millions of unborn generations who are to exist hereafter in America, against the only liberty and happiness which remain to mankind, against the last hopes of the wretched in every corner of the world; in a word, it will be treason against God. * * * WE ARE NOW LAYING THE FOUNDATIONS OF AN AMERICAN CONSTITUTION. Let us, therefore, hold up everything we do to the eye of posterity. They will most probably measure their liberties and happiness by the most careless of our footsteps. Let no unhallowed hand touch the precious seed of liberty. Let us form the glorious tree in such a manner, and impregnate it with such principles of life, that it shall last forever. * * * *I almost wish to live to hear the triumphs of the jubilee in the year* 1874; to see the medals, pictures, fragments of writings, that shall be displayed to revive the memory of the proceedings of the Congress of 1774. If any adventitious circumstance shall give precedency on that day, it shall be to inherit the blood, or even to possess the name, of a member of that glorious assembly."—*Amer. Arch.*, 4 *ser.*, *vol* 1, *p.* 976.

In these various resolves and declarations, Mr. President, we have the first expressions of the public sentiment and will of the American people upon this subject of slavery. The earliest action of the associated colonies was anti slavery action. The Union which they then formed was indeed, as I have said, incomplete; but it was complete enough to warrant the Congress which represented it in declaring independence, in waging war, in contracting debts; in assuming, in short, many of the functions of nationality and sovereignty.

Well, sir, nearly two years passed by, and the grievances of the colonies remained unredressed. The war of the Revolution had begun, and the Declaration of Independence was promulgated. That instrument breathed the same spirit as the Articles of Association. The original draught, as it came from the hands of Jefferson, contained a clause reprobating in the strongest terms the traffic in men. I will read it:

"He has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him; captivating and carrying them into slavery in another hemisphere, or to incur a miserable death in their transportation thither. This piratical warfare, the opprobrium of *infidel* Powers, is the warfare of the *Christian* King of Great Britain. Determined to keep open a market where *men* should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce." *

This clause was indeed omitted from the Declaration, not because it did not express the sentiments of the majority of Congress, but, as Mr. Jefferson informs us, in compliance to South Carolina and Georgia. He intimates also that some tenderness under these censures was manifested by Northern gentlemen, whose constituents had been somewhat largely engaged in the slave trade. But still the great fundamental truth, which constitutes the basis of all just government, and which condemns equally every form of oppression, was retained in the Declaration, and announced to the world as self-evident: the truth that "all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments were instituted among men, deriving their just powers from the consent of the governed."

Thus we see that, in this second great act of the American people, the fundamental truth upon which the Articles of Association were based was reiterated; not as a "rhetorical flourish," not as an abstraction incapable of practical application in huma

* 3 *Madison Papers*, at the close of the volume, where fac simile in Mr. Jefferson's handwriting will be found.

affairs, but as a living principle, not to be disregarded, without fatal consequences, in the structure or the administration of government. That such was the view actually taken of the Declaration at that time is further evident from the language of the despatches transmitting it to the authorities of the different colonies, and to the commander-in-chief of the army. I will quote a paragraph from the letter of the President of Congress, John Hancock, to the Convention of New Jersey.

"I do myself the honor to enclose, in obedience to the commands of Congress, a copy of the Declaration of Independence, which you will please to have proclaimed in your colony in such way and manner as you judge best. The important consequences resulting to the American States from this Declaration of Independence, *considered as the ground and foundation of a future Government*, will naturally suggest the propriety of proclaiming it in such a mode as that the people may be universally informed of it."—*Amer. Arch., 5th series, vol.* 1, *p.* 11.

Such were the principles, Mr. President, of the Government and the People during the struggle for independence. They were reiterated at the close of it. Very shortly after the treaty of peace was ratified in 1783, Congress issued an address to the States, drawn up by Mr. Madison, the main purpose of which was to persuade to the provision of a fund for the discharge of the public engagements. That address contains the clause which I will now read:

"Let it be remembered, finally, that it has ever been the pride and boast of America that the rights for which she contended were *the rights of human nature*. By the blessing of the *Author of these rights* on the means exerted for their defence, they have prevailed against all opposition, and *form the basis of thirteen independent States*. No instance has heretofore occurred, nor can any instance be expected hereafter to occur, in which the unadulterated forms of republican government can pretend to so fair an opportunity of justifying themselves by their fruits. In this view, the citizens of the United States are responsible for the greatest trust ever confided to a political society."
1 *Madison Papers, Ap.* 11.

This, sir, was the acknowledgment of 1783. That the war of the Revolution was waged not to vindicate privileges, but rights; not the rights of any part or class of the people, but the rights of all men—"the rights of human nature."

It was not long before an occasion arose to test the sincerity of Congress in these various declarations; to determine whether or not Congress was prepared to carry the principles so solemnly recognised into practical application, without respect to persons or sections. Nor was Congress wanting to the occasion.

On the 1st of March, 1784, Virginia ceded to the United States all her claim to the territory northwest of the Ohio. Much praise has been awarded to Virginia for this cession. I desire to detract nothing from it. Virginia, doubtless, confided fully in the validity of her title to the territory which she ceded. It is true that, acting under her authority, and in anticipation of an expedition ordered by Congress, the gallant George Rogers Clarke, at the head of a handful of brave Kentuckians, dispossessed the British authorities of that portion of the territory which they had occupied on the Wabash and Mississippi. But it is right to say, and I am bound to say, that the validity of the Virginia title was never recognised, was always contested, by Congress. Other States claimed interests in the same territory. New York claimed the whole; Connecticut claimed a part, and Massachusetts also advanced a claim. Against all these demands, Congress asserted a right, in behalf of the United States, to the entire trans-Alleghanian region, as Crown Lands, acquired from Great Britain by the common blood and treasure of all the States, and appealed to the claimant States to relinquish their pretensions. New York was the first to respond to this appeal, and her cession was accepted by Congress in 1782. Virginia had previously proposed to cede all her claim northwest of the Ohio on certain conditions; but, the conditions not being admitted, the cession was not accepted. Subsequently the contest was terminated by a satisfactory cession, made by Virginia and accepted by Congress. It was an arrangement, in fact, which involved concessions on both sides. Virginia yielded to the United States all her claims to territory northwest of the Ohio, and the United States tacitly surrendered to Virginia all claim to the territory southeast of that river, alleged to be within her chartered limits. I have thought it my duty to make these observations, as a Senator of a State whose rights and interests, as well as the rights and interests of her sister States of Pennsylvania, Indiana, and Illinois, are affected to some extent, by the claim of exclusive title to the Western country which has been advanced in behalf of Virginia.

Whatever the title of Virginia may have been, however, it is certain that upon her cession, made, as I have said, on the 1st of March, 1784, the United States came into the undisputed ownership and sovereignty of the vast region northwest of the Ohio. To dispose of the soil and to determine the political institutions of the Territory, now became the duty of Congress; and the duty was promptly performed. On the very day of the cession, before the sun went down, Thomas Jefferson, in behalf of a committee, consisting of himself, Mr. Howell of Rhode Island, and Mr. Chase of Maryland, reported a plan for the government of the Western Territory—not that lying north of the Ohio merely, but of all, from the north line of Florida to the north line of the United States. This, sir, is a memorable document of our early history, and I propose to read portions of it to the Senate:

"The territory *ceded, or to be ceded*, by the individual States to the United States, * * * shall be formed into distinct States. * * * The settlers * * * shall, either on their own petition or on the order of Congress, receive authority, with appointments of time and place, for their free males, of full age, to meet together for the purpose of establishing a temporary Government. * * * * * Such temporary Government shall only continue in force, in any State, until it shall have acquired twenty thousand inhabitants; when, giving due proof thereof to Congress, they shall receive from them authority, with appointments of time and place, to call a convention of representatives to establish a permanent Constitution and Government for themselves: *Provided*, That both the temporary and permanent Governments be established upon these principles as their basis."

Here follow sundry provisions, the last of which is as follows:

"*That after the year* 1800 *of the Christian Era there shall be neither slavery nor involuntary servitude in any of the said States, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted to have been personally guilty.*"—4 Journals Cong. Confed., 374.

This, sir, was the plan and *proviso* of Jefferson. It met the approbation of the American People. It proved that the declaration of 1776 was not an empty profession, but a true faith. It proved that the spirit of the covenant of 1774 yet animated the heart of the nation. According to this grand and comprehensive scheme, the commencement of the nineteenth century was to witness the inauguration of freedom, as the fundamental and perpetual law of the transmontane half of the American Republic.

Had this plan and proviso been adopted, we should not now be discussing the questions which embarrass us. The extension of slavery would have been limited by the Alleghanies. No slave could ever have trodden a foot of the soil beyond. Unhappily, however, the proviso was not adopted; and, as I have already said that it met the approval of the people, I ask attention to the proceedings which resulted in its rejection. On the 19th of April, Mr. Spaight, of North Carolina, moved that the proviso be stricken out. Under the Articles of Confederation, which governed the proceedings of Congress, a majority of the thirteen States was necessary to an affirmative decision of any question; and the vote of no State could be counted, unless represented by at least two delegates.

The question upon Mr. Spaight's motion was put in this form:

"Shall the words moved to be struck out stand?"

The vote stood—

For the Proviso, six States, viz: New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, and Pennsylvania.

Against the Proviso, three States, viz: Virginia, Maryland, and South Carolina.

Delaware and Georgia were not represented. New Jersey, by Mr. Dick, voted *aye*, but her vote, only one delegate being present, could not be counted. The vote of North Carolina was divided—Mr. Williamson voting *aye*, Mr. Spaight, *no*. The vote of Virginia stood—Mr. Jefferson, *aye*, Messrs. Hardy and Mercer, *no*. Of the twenty-three delegates present and voting, sixteen voted for, and seven against, the proviso. Thus was the proviso defeated by a minority vote. The people were for it, the States were for it; but it failed in consequence of a provision which enabled the minority to control the majority. It so happened that Mr. Beatty, the colleague of Mr. Dick, had left Congress a day or two before, and returned a day or two after. Had he been present, or had one of Mr. Jefferson's colleagues voted with him, the result would have been changed.* How vast the consequences which, in this instance, depended on a single vote.

Well, sir, the Ordinance of 1784, thus maimed and otherwise mutilated, became the law of the land on the 23d of April following. In 1785, Mr. Jefferson went abroad as Minister to France, and was out of the country until after the adoption of the Constitution. The agitation of the proviso, however, did not cease in consequence of his absence. In that same year, (1785,) Mr. King, of Massachusetts, again moved the proviso in Congress, in a slightly modified form, as follows:

"That there shall be neither slavery nor involuntary servitude in any of the States described in the resolves of Congress of the 23d of April, 1784, otherwise than in the punishment of crimes, whereof the party shall have been personally guilty; and that this regulation shall be an article of compact, and remain a fundamental principle of the constitutions between the thirteen original States, and each of the States described in the said resolve of the 23d of April, 1784."—4 *Jour. Cong. Confed.*, 481.

The resolution was ordered to be committed by the votes of New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, and Maryland—eight; against the votes of Virginia, North Carolina, South Carolina, and Georgia—four. Delaware was not represented. The vote of Maryland was determined by two ayes against one no, while that of Virginia was determined by two noes against one aye. The decided favor shown to this resolution by the vote for its commitment was the more remarkable, inasmuch as it proposed the immediate prohibition of slavery, instead of prohibition after 1800, in all territory acquired, and to be acquired.

No further action was had at this time; but in a little more than two years afterwards, the subject was brought for the third time before Congress, in connection, as before, with the government of the Western Territory. The Ordinance of 1784, from causes into which it is not material to inquire, had never been carried into practical operation. Settlements were about to commence in the Northwest, and the settlers needed protection and government. Congress, therefore, in 1787, resumed the consideration of the subject of Western Territory. These deliberations resulted in the celebrated Ordinance of 1787, the last great act, and among the greatest acts of the Congress of the Confederation; an act which received the unanimous votes of the States; and, with a single exception from New York, of all the delegates. This Ordinance, in its sixth article of compact, expressly prohibited slavery and involuntary servitude, except for crime, throughout the Territory. It abolished existing slavery, and it forbade future slavery. It covered with this prohibition every inch of territory then belonging to the United States. It expressly declared the national policy which this prohibition and kindred provisions contained in the articles of compact were meant to indicate and establish. This is its language:

"For EXTENDING the *fundamental principles of civil and religious liberty*, whereon these republics, their laws and constitutions, are erected; *to fix and establish* those principles as the basis *of all laws, constitutions, and governments*, which *forever* hereafter shall be formed in the said territory: * * * Be it ordained and declared, &c."

To guard against possible future departure from this policy, it was ordained that these articles should "forever remain unalterable," unless altered by the "common consent of the original States, and the people and States in the Territory."

It is hardly possible to conceive of a more explicit declaration of governmental policy than this. The state of public sentiment in regard to slavery, which resulted in this positive and unanimous exclusion of it from national territory, is well described in a letter of Mr. Jefferson to Dr. Price, who published about that time a book in favor of emancipation. The letter bears date Paris, August 7th, 1785. I will read an extract:

"Southward of the Chesapeake, it will find but few readers concurring with it (Dr. P.'s book) in sentiment on the subject of slavery. From the mouth to the head of the Chesapeake, the bulk of the people will approve it in theory, and it will find a respectable minority ready to adopt it in practice; a minority which, for weight and worth of character, preponderates against the greater number who have not the courage to divest their families of a property which, however, keeps their conscience uneasy. Northward of the Chesapeake, you may find here and there an opponent to your doctrine, as you may find here and there a robber or a murderer; but in no greater number. In that part of America, there being but few slaves, they can easily disencumber themselves of them; and emancipation is put into such a train that in a few years there will be no slaves northward of Maryland. In Maryland I do not find such a disposition to begin the redress of the enormity as in Virginia. This is the next State to which we may turn our eye for the interesting spectacle of justice in conflict with avarice and oppression; a conflict wherein the sacred side is gaining daily recruits from the influx into office of young men, grown and growing up."

The general state of opinion is also well expressed by Mr. Jefferson in his Notes on Virginia, where he says:

"I think a change already perceptible since the origin of our present revolution. The spirit of the master is abating; that of the slave is rising from the dust, his condition mollifying, and the way I hope preparing, under the auspices of Heaven, for a total emancipation."

In another place, declaring his own sentiments, he said:

"Nobody wishes more ardently than I to see an abolition not only of the trade, but of the condition of slavery; and certainly nobody will be more willing to encounter any sacrifice for that object."

These sentiments were shared by nearly every distinguished character of that time.

In a letter to Robert Morris, dated Mount Vernon, April 12, 1786, George Washington said:

"I can only say that there is not a man living who wishes more sincerely than I do to see a plan adopted for the abolition of it, [slavery;] but there is only one proper and effectual mode in which it can be accomplished, and that is by legislative authority; and this, so far as my suffrage will go, shall never be wanting."—9 *Sparks's Washington*, 158.

In a letter to John F. Mercer, September 9, 1786, he reiterated this sentiment:

"I never mean, unless some particular circumstances should compel me to it, to possess another slave by purchase, it being among my first wishes to see some plan adopted by which slavery in this country may be abolished by law."—*Ibid.*

And, in a letter to Sir John Sinclair, he further said:

"There are in Pennsylvania laws for the gradual abolition of slavery, which neither Virginia nor Maryland have at present, but which nothing is more certain than they must have, and at a period *not remote*."

It is unnecessary to multiply these extracts. So universal were these sentiments, that Mr. Leigh, in the Convention of Virginia, in 1832, did not hesitate to say:

"I thought, till very lately, that it was known to everybody that, during the Revolution, and for many years after, the abolition of slavery was a favorite topic with many of our ablest statesmen, who entertained with respect all the schemes which wisdom or ingenuity could suggest for its accomplishment."

I think, Mr. President, that two facts may now be regarded as established: First, that in 1787 the national policy in respect to slavery was one of restriction, limitation, and discouragement. Secondly,

* 4 Journals Cong. Confed., 374; see also Cong. Globe, 1848-'9, Appen., 294, Speech of Hon. John A. Dix.

that it was generally expected that under the action of the State Governments slavery would gradually disappear from the States.

Such was the state of the country when the Convention met to frame the Constitution of the United States. That Convention was sitting in Philadelphia while Congress was framing the Ordinance in New York.

It has been said, in the course of this debate, that there was some understanding between Congress and the Convention in regard to the question of slavery. That may be so. There is, however, nothing in history which proves it, though circumstances do certainly seem to warrant such a conjecture. But, if there was an understanding, to what did it relate? Not certainly to the whole subject of slavery; for, up to the time of the promulgation of the Ordinance, no discussion had taken place in the Convention on that subject, except in respect to the question of representation and taxation. That question had been discussed with considerable heat; so much, indeed, that some members declared themselves ready to break up the Convention rather than consent to the representation of slaves. The exclusion of slavery from the Territories by the Ordinance may have had, and may have been intended to have, some influence upon this discussion. It may be that members from the free States, seeing slavery excluded from national territory, and supposing its extension to be thereby forever interdicted, were the more willing to consent to a representation of slaves as a temporary arrangement, which would cease of itself when slavery itself should cease or run out, at some period "not remote." But there is not a particle of foundation for any supposition that there was any understanding between Congress and the Convention, based upon the idea that slavery and freedom were entitled to equal regard in the action of the Government. Far from it. Whatever understanding there was, if there was any, must have been based upon the idea of slavery restriction; upon the fact that its extension was prohibited, and that its final disappearance was expected.

The framers of the Constitution acted under the influence of the general sentiment of the country. Some of them had contributed in no small measure to form that sentiment. Let us examine the instrument in its light, and ascertain the original import of its language.

What, then, shall we find in it? The guaranties so much talked of? Recognition of property in men? Stipulated protection for that property in national territories and by national law? No, sir; nothing like it.

We find, on the contrary, extreme care to exclude these ideas from the Constitution. Neither the word "slave" nor "slavery" is to be found in any provision. There is not a single expression which charges the National Government with any responsibility in regard to slavery. No power is conferred on Congress either to establish or sustain it. The framers of the Constitution left it where they found it, exclusively within and under the jurisdiction of the States. Wherever slaves are referred to at all in the Constitution, whether in the clause providing for the apportionment of representation and direct taxation, or in that stipulating for the extradition of fugitives from service, or in that restricting Congress as to the prohibition of importation or migration, they are spoken of, not as persons held as property, but as persons held to service, or having their condition determined, under State laws. We learn, indeed, from the debates in the Constitutional Convention, that the idea of property in men was excluded with special solicitude.

Mr. Madison declared, he "thought it wrong to admit in the Constitution the idea that there could be property in men."—3 *Mad. Pap.*, 1429.

Mr. Gerry thought the Convention "had nothing to do with the conduct of the States as to slaves, but ought to be careful not to give any sanction to it."—3 *Mad. Pap.*, 1394.

Similar expressions were used by other members. But I need go no further. Multiplied words will not convince those who will not regard the language of the Constitution itself, or the plain declarations of its framers.

It may, however, be worth while to refer briefly to the views expressed in the State Conventions which convened for the purpose of considering the Constitution with a view to its ratification. Did they expect the extension or continuance of slavery through the action or under the protection of the Government which they were called on to establish? Not at all.

James Wilson, of Pennsylvania, had been a leading member of the Convention, and in the Ratification Convention of his State, when speaking of the clause relating to the power of Congress over the slave-trade after twenty years, he said:

"I consider this clause as laying the foundation for banishing slavery out of this country; and though the period is more distant than I could wish it, it will produce the same kind, gradual change as was produced in Pennsylvania. * * * The *new* States which are to be formed will be under the *control* of Congress in this particular, and slavery will never be introduced among them."

2 *Elliot's Debates*, 452.

In another place, speaking of this clause, he said:

"It presents us with the pleasing prospect that the rights of mankind will be acknowledged and established throughout the Union. If there was no other lovely feature in the Constitution but this one, it would diffuse a beauty over its whole countenance. Yet the lapse of a few years, and Congress will have power to exterminate slavery from within our borders."—2 *Elliot's Debates*, 434.

In the Ratification Convention of Massachusetts, Gen. Heath said:

"The migration or importation, &c., is confined to the States now existing only; new States cannot claim it. Congress by their ordinance for creating new States some time since declared that the new States shall be republican, and that there shall be no slavery in them."—2 *Elliot's Debates*, 115.

Nor were these views and anticipations confined to the free States. In the Ratification Convention of Virginia, Mr. Johnson said:

"They tell us that they see a progressive danger of bringing about emancipation. The principle has begun since the Revolution. Let us do what we will, it will come round. Slavery has been the foundation of much of that impiety and dissipation which have been so much disseminated among our countrymen. If it were totally abolished, it would do much good."—3 *Elliot's Debates*, 6—48.

And Governor Randolph, while denying, and justly denying, the power of the General Government, under the Constitution, to interfere with slavery in the States, rebuked those who expressed apprehensions that its influence might be exerted on the side of freedom, by saying:

"I hope that there are none here who, considering the subject in the calm light of philosophy, will advance an objection dishonorable to Virginia, that, at the moment they are securing the rights of their citizens, there is a spark of hope that those unfortunate men now held in *bondage* may, by the operation of the General Government, be made *free*."—3 *Elliot's Debates*, 598.

But the people were not satisfied with the fact that no power to invade personal freedom was conferred on Congress by the Constitution. They demanded direct and positive guaranties of personal rights. In compliance with these demands, several of the Ratification Conventions proposed to Congress such amendments as were desired by their respective States.

Virginia proposed a bill of rights, omitting, singularly enough, the first and fundamental provision of her own bill of rights, namely, that "all men are born equally free and independent," but containing this provision:

"No *freeman* ought to be taken, imprisoned, or disseised of his freehold, liberties, privileges, or franchises, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, *but by the law of the land*."

3 *Elliot's Debates*, 658.

North Carolina and Rhode Island each proposed the same clause. (4 *Elliot's Deb.*, 243: 1 *Ib.*, 334.) New York proposed a different provision:

"No *person* ought to be taken, imprisoned, or disseised of his freehold, or be exiled, or deprived of his privileges, franchises, life, liberty, or property, but by due process of law."—1 *Elliot's Debates*, 328.

These various propositions came before Congress,

and that body, at its first session, agreed upon several amendments to the Constitution, which were subsequently ratified by the States. That which related to personal liberty was expressed in these comprehensive words:

"No person * * * * shall be deprived of life, liberty, or property, without due process of law."—*Cons, Amend., Art.* 5.

In my judgment, sir, if this amendment had never been made, Congress would have had no power to institute slavery; that is to say, to enforce, by its laws, the subjection of one man to the absolute control and disposal of another man: for no such power is conferred by the Constitution, and the action of Congress must be restrained within its delegated powers. But the amendment is an express guaranty of personal liberty. It is an express prohibition against its invasion. So long as it remains a part of the Constitution, and is obeyed, slavery cannot be constitutionally introduced anywhere or maintained anywhere by the legislation of Congress. It must depend, and depend wholly, upon State law, both for existence and support. Beyond State limits, within the boundaries of the United States, there can be constitutionally no slave.

Here I may pause. I have rapidly sketched the rise of the American Government and the American Union, so far as their relations to American slavery are involved, from their origin in the Association of 1774 to the establishment of the Constitution in 1787. One spirit pervaded, one principle controlled all this action—a spirit of profound reverence for the rights of man as man—the principle of perfect equality of men before the law.

Animated by this spirit and guided by this principle, the Association bound all its members to discontinue the slave-trade. If any of them continued it, and some of them did, the guilt was on their own heads only, for the Association had no power to enforce the covenant. When the American Congress resolved on independence, they solemnly announced the great doctrine of inalienable rights as the basis of the national political faith and the foundation of all just government. When the war of the Revolution was over, they renewed the declaration that the contest which they had waged was in defence of the rights of human nature. When the acquisition of the Northwestern Territory presented an opportunity of carrying into practical application their exalted principles, they did not hesitate, but established them forever as the basis of all laws, constitutions, and governments, within its limits. When the Confederation proved inadequate to the exigencies of the Republic, and the people undertook the work of reforming their political system, they constituted the new Government and established the new Constitution upon principles which made the enslavement of men by the Government under the Constitution a legal impossibility. Let those who are inclined to murmur because no more was done, ask themselves by what people, in what age besides, has so much been done for the cause of freedom and right? Up to the time of the adoption of the Constitution, there was not a single slave in America, made such or held such, under any law of the United States. Had the policy of the founders of the Republic been pursued, and had the principles which they established been faithfully carried out in legislation and administration, there would have been now no slave anywhere under exclusive national jurisdiction—probably no slave within the boundaries of the Republic.

Unhappily, however, the original policy of the Government and the original principles of the Government in respect to slavery did not permanently control its action. A change occurred—almost imperceptible at first, but becoming more and more marked and decided, until nearly total. The honorable Senator from Massachusetts in the course of his late speech noticed this change, and ascribed it to the rapid increase in the production of cotton. Doubtless, sir, this was a leading cause. The production of cotton, in consequence of the invention of the cotton gin, increased from 487,600 pounds in 1793, to 6,276,300 pounds in 1796, and continued to increase very rapidly afterwards. Of course the market value of slaves advanced, and masters were less inclined to emancipation.

But the increase of the cotton crop was not the only, nor, in my judgment, the chief cause of altered public sentiment and governmental action. The change in the structure of the Government which introduced into one branch of the Legislature, and into the electoral college, a representation for slaves, constituted, I think, a far more potent cause. I will sketch the progress of the power derived from this source, for I think it important that its practical operation should be understood.

The Constitution permitted five slaves to be counted in the basis of representation as equal to three freemen. This rule, commonly known as the three-fifths rule, created a privileged order in this country, founded not on merit or public service, but upon force and wrong.

The first apportionment was made by the Constitution-Convention. Regard was had, doubtless, to the three-fifths rule in determining the number of Representatives assigned to each State, but we cannot now ascertain how many were allowed for the slaves. The census supplies the means of ascertaining the precise quantum of slave representation in each decennial period since the first apportionment. I now propose to submit to the Senate a table which exhibits at one view each decennial period since the adoption of the Constitution; the number of inhabitants required for one Representative; the number of slaves reckoned at three-fifths of their actual number; and the number of Representatives for slaves during each period.

Decennial period.	Representative number.	Three-fifths of slaves.	Representatives for slaves.
1790 — 1800	30,000	498,737	13
1800 — 1810	33,000	535,824	16
1810 — 1820	35,000	714,816	20
1820 — 1830	40,000	922,839	23
1830 — 1840	40,700	1,205,418	25
1840 — 1850	47,680	1,493,013	21

From this table it appears that in the very first Congress, if the Convention based their original apportionment upon anything like a correct estimate of the population, there must have been at least ten Representatives of slaves, and that in the second Congress there were thirteen. It was impossible that the influence of this representation should not be felt. It was natural, though it does seem to have been anticipated, that the unity of the slave interest, strengthened by this accession of political power, should gradually weaken the public sentiment and modify the national policy against slavery.

Well, sir, occasion was not long wanting to test the dispositions of Congress in this respect. At an early period of the second session of the 1st Congress, petitions were presented from the Society of Friends in Philadelphia and New York, and from the Pennsylvania Abolition Society, of which Benjamin Franklin was the President, praying Congress to take such measures as the Constitution would permit to discountenance and discourage slavery and the slave trade. A similar address had been made by a deputation of Friends to the Congress of the Confederation in 1783, who were received and heard with great respect, though Congress, having no power over the subject, was obliged to decline taking such action as was desired.* The petitions now presented were not treated with similar consideration. They were, however, received and referred, and in due time a report was made. In this report, the limits of the powers of Congress over the subjects of slavery and the slave-trade were carefully defined. In regard to slavery in the States, it expressed the fullest "confidence in the wisdom and humanity of the Legislatures, that they would revise their laws from time to time, when necessary, and *promote the objects mentioned in the memorials*, and every other measure that may tend to the happiness of slaves;" and, in

*4 Journal Congress Confed., 286—89.—1 Deb. Congress, Old Series, 1224.

regard to slavery within the sphere of the legitimate action of Congress, it concluded with the following expression:

"That the memorialists be informed that, in all cases to which the authority of Congress extends, they will exercise it for the humane objects of the memorialists, so far as they can be promoted on the principles of justice, humanity, and good policy."—2 *Deb. Cong., Old Ser.*, 1465.

This report was assailed with great vehemence, especially by the members from South Carolina and Georgia, who denounced the petitioners and their objects, not sparing even the venerable Franklin, very much in the style of later days. The African slave-trade itself came in for a share of approval and vindication.

It was apparent that there was a large majority in favor of the report; but a desire to satisfy even unreasonable objectors, induced the concession of one point after another, until the report was reduced to three propositions: First, that migration or importation could not be prohibited prior to 1808. Second, that Congress had not power to interfere in the emancipation or treatment of slaves in the States. Third, that Congress could prohibit the slave-trade by the citizens of the United States for the supply of foreigners, and provide for humane treatment on the passage of those imported into the States. The last resolution of the original report, which pledged the Government, in conformity with its past policy and professed principles, to promote the objects of the memorialists, was stricken out altogether.

This was the first fruit of intimidation on the one side, and concession and compromise on the other. The majority of the House forbore to express their own settled convictions; forbore to pledge themselves to that course of disfavor to slavery and the slave-trade, which consistency, honor, and humanity, required of them; yielded everything of substance, and retained little else than form. Could they have seen that this was but the first step in a long line of concessions, perhaps not yet ended, surely the patriotic men who composed that Congress would never have taken that first step.

What followed, sir? In that same year, North Carolina tendered to the United States a cession of the territory lying between the mountains which form her present western boundary and the Mississippi, and now constituting the State of Tennessee, upon condition "that the inhabitants should have all the privileges, benefits, and advantages, of the Ordinance of 1787; provided, always, that no regulations made or to be made by Congress should tend to emancipate slaves." Congress accepted this cession, and provided for the government of the ceded country as a slaveholding Territory.

Hitherto Congress had never sanctioned slaveholding. Never hitherto had a single slave been held under any authority emanating from Congress. On the contrary, as we have seen, in all the territory hitherto acquired, slavery had been promptly abolished, and impregnable barriers erected against its renewed introduction. The acceptance of the North Carolina cession reversed the policy of the Government, and was a step in the wrong direction. To preserve the dominion of a few masters over an inconsiderable number of slaves, established policy, settled principle, and safe precedent, were alike disregarded. It was a mischievous—an almost fatal error.

In 1802, Georgia ceded to the United States the country lying between her present western limit and the Mississippi, stipulating that the Ordinance of 1787, in all its provisions, should extend to the ceded territory, "that article only excepted which forbids slavery." This cession was accepted, and the territory placed under a Territorial Government, restricted from all interference with slavery. This was the second chapter in the history of reaction.*

In 1803, we acquired Louisiana by purchase from the French Republic. There were at that time about forty thousand slaves held within its limits, under the French law. The treaty contained this stipulation:

"The inhabitants of the ceded territory shall be incorporated in the Union of the United States and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the mean time, they shall be maintained in the free enjoyment of their liberty, property, and the religion which they profess."—8 *Stat. at Large, U. S.*, 202.

This stipulation, interpreted according to the plain sense of its terms, and carried into practical effect, would have enfranchised every slave in Louisiana; for no one, I apprehend, will venture to affirm that the slaves were not inhabitants. Independently of this stipulation, it was the duty of the Government—even more imperative than in 1787, for since then the whole country south of the Ohio and east of the Mississippi had been formed into slave States and slave Territories—to establish freedom as the fundamental law of the new acquisition. But this duty was not performed. There was some feeble legislation against the introduction of slaves from foreign countries, and of slaves imported since 1798 from the other States; but that was all, and that was useless.

Then came the cession of Florida by Spain in 1820. The stipulation in the treaty was substantially the same as in the treaty with France;* the duty of the Government in respect to the acquisition was the same; and there was the same failure to perform it.

Finally, Texas came in in 1845, not as a Territory, but as a State. Within her limits, slavery was never under the control of Congress. The existence of slavery there was an objection to her admission into the Union; but once admitted, and admitted as a State, her internal legislation on that subject was as much beyond the reach of the National Government as before.

Now, sir, what would have been the result if the policy which formed the cessions of North Carolina, Georgia, France, and Spain, into slave Territories, and finally admitted slaveholding Texas, had prevailed in 1787? Slavery, it is well known, existed in the Northwestern Territory. The honorable Senator from Illinois [Mr. DOUGLAS] has informed us that slavery was continued in that State, notwithstanding the Ordinance, under the protection of the State Constitution. We know what persevering efforts—continued from 1802 to 1807, and until final rejection of the application here—were used to induce Congress to suspend the operation of the slavery prohibition in the Ordinance in respect to all the territory not included within the limits of Ohio. We know what arguments were employed—the same precisely which have ever since been urged by those who would reconcile the people to the extension of slavery—the same, doubtless, which were urged with too fatal success to persuade the National Legislature to its first departure from the policy of 1774 and 1787. It was said that slavery would not be increased by the proposed extension, its only effect being to change the locality of persons already slaves; that the happiness of the slaves would be promoted by increased comforts of their new abodes; and, finally, that emancipation would be promoted by spreading the slaves over the largest possible extent of territory, and thereby making emancipation safe.†

These facts furnish conclusive proof that but for the positive prohibition of slavery by the Ordinance of 1787, every foot of land west of the Alleghany mountains would have been at this day slave soil. No law of physical geography or formation of the earth, no want of adaptation of soil or climate to the great staples of slave labor, no imaginary barrier in degrees of latitude, would have arrested the progress of the fatal blight.

Let us be thankful that the wisdom of the founders of the Republic foresaw, and by positive prohibition prevented, this great calamity. Let us be thankful, also, that those who followed them, though they

* More properly speaking the third, since the cession of the District of Columbia had been previously accepted, and the slave codes of Virginia and Maryland adopted and continued therein by act of Congress.

* 8 U. S. Stat. at Large, 256.

† 20 Amer. State Papers, 387—485.

failed to imitate their example, were yet unwilling to undo their work.

Let me now, sir, sum up the results of this policy of adding new slave Territories and new slave States to the Union, which was substituted for the original policy of free Territories and free States.

I make no remark here upon the admission of Kentucky. That State was a district of Virginia, and never a Territory of the United States. But out of Territories ceded to the Union, and actually organized under national jurisdiction, since the adoption of the Constitution, seven slave States have been erected and admitted: Tennessee out of the cession of North Carolina; Alabama and Mississippi out of the cession of Georgia; Louisiana, Missouri, and Arkansas, out of the cession of France; and Florida out of the cession of Spain. Besides these States, we have annexed slaveholding Texas, vast in her undisputed limits, and with vast claims beyond them. Here are eight new slave States, created and admitted out of Territories, not one foot of which had been ceded to the United States prior to the Constitution, and five of them out of foreign territory acquired by purchase or annexation since its adoption.

Well, sir, where are the free States which have come into the Union out of these Territories? There is but one. Iowa is the single State yet admitted out of all the vast Territories acquired since the organization of the Government.

Thus, sir, we see that while the original policy of the Government secured to freedom all the territory acquired before the Constitution, and all the States erected out of it, the reversal of that policy secured to slavery most of the territory subsequently acquired, and all the States formed out of it except one.

Now, sir, I desire to submit to the Senate a comparison of the areas which belonged respectively to freedom and to slavery at the date of the Constitution, and the areas which have been devoted to freedom and to slavery, respectively, in States created out of Territories and admitted into the Union since that date. I have compiled from the reports of the Commissioner of the Land Office a statement exhibiting this comparison, which I will read:

FREE STATES.	*Sq. ms.*
States in 1787, including Vermont and Maine -	164,081
States out of Northwestern Territory, viz: Ohio, Indiana, Illinois, Michigan, and Wisconsin -	239 345
State out of foreign territory acquired, viz: Iowa -	50,914
	454,340
SLAVE STATES.	
States in 1787, including Kentucky - - - -	243,642
States out of territory within original limits, viz: Tennessee, Alabama, and Mississippi - - -	141,969
States out of foreign territory acquired, including Texas within her undisputed boundaries - -	373,786
	759,307
Difference in favor of slave States, in square miles -	304,967
Add to this parts of Tamaulipas and Coahuila, between Nueces and Rio Grande, claimed by Texas	52,018
Add also part of New Mexico, east of Rio Grande, claimed by Texas - - - - - - - -	124,933
And the vast aggregate difference would swell to -	431,918

Upon inspection of this table, it will be seen that, had the original policy of the Government been persevered in, and no new slave States created out of Territories, the difference of area in favor of freedom within the original limits of the Republic would have been 282,738 square miles; and all territory acquired beyond those limits would of course have been free. It will be seen also that the reversal of this policy reduced this difference to 18,905 square miles, and, by acquisitions of foreign territory, changed the balance and created a difference in favor of slavery of 304,967 square miles, which will be increased, if the claims of Texas are allowed, to the enormous quantity of 431,918 square miles. Within these limits slavery suffers for want of room!—is "cabined, cribbed, confined," and seeks a wider sphere!

Sir, complaints from the slave States, under these circumstances, sound strangely to me. Why, sir, has not the policy of the Government been reversed in favor of their system? Has not slavery been extended to undreamed-of limits? Have not the slave States been more than doubled in number? Has not their area been almost tripled in extent? And yet they complain—complain of the aggressions of the North. They complain that the recapture of fugitive slaves is rendered difficult by free State legislation and free State sentiment; and that the subject of slavery is discussed and adverse opinions formed in the free States, which the electors ask us to embody in national legislation; that slavery has been already excluded from a portion of the national territories; and that a determination is manifested to prevent its further extension, and to restore the original policy of slavery restriction and discouragement.

Now, sir, so far as these complaints have reference to the action of the people, it is impossible to appease them. This is a Government of the people, and the voice of the people must be heard and respected in its administration. The States also are Governments of the people, and must be administered in conformity with the popular will. If the settled judgment and conscientious convictions of the people are against slavery, legislation, within constitutional limits, must follow that judgment and those convictions.

And, so far as these complaints respect the former action of the National Government, they who make them complain of themselves. For where has resided the practical control of this Government? Let a few facts answer this question. At the close of the current Presidential term, the slave States will have held the Presidency fifty-two years; the free States only twelve years. Of the gentlemen who have filled the Department of State, fourteen have been from the slave States, and five only from the free. Thirteen of the Judges of the Supreme Court have been taken from the slave States; from the free States, twelve. No Northern man has filled the office of Chief Justice during this century; and, notwithstanding the population of the free States is more than double the free population of the slave States, the latter have always been represented by a majority of the Judges upon the Supreme Bench. Of the Speakers of the House of Representatives, twelve have been from the slave States, and eight only from the free States; thus giving to the slave States the control of the appointment of the committees, and, consequently, of the business of the House. Sir, it cannot be denied that the power of this Government, in all its departments, has been for many years, practically and substantially, in the hands of Southern men, and has been used to advance the interests, real or supposed, of the slave section of the country.

These are not my assertions merely. They are the assertions of our public history, confirmed by the testimony of Southern gentlemen. I beg leave to quote an extract from the Charleston Courier of October 30, 1844:

"Our past experience has shown that the weight of the South has been heavily felt in the political balance, and has almost always monopolized high federal office.

"The Southern or slaveholding States have given six out of ten Presidents to the Union; the Northern or non-slaveholding States have given but four, and out of these four the two last were chosen by a large majority of Southern votes, and the last was a native Virginian, filially devoted to the rights and interests of the land of his birth; and even the two first enlisted a strong Southern support.

"Again, of the six Southern Presidents, five were re-elected to their high offices, and each occupied it for eight years, and only one will have occupied it but four years, giving in all to the slaveholding interest the possession and control of the Presidency for forty-four years out of fifty-six, while of the four non-slaveholding Presidents three occupied the Presidency but four years each, and one only a little month, giving in all to the non-slaveholding interest the possession and control of the Presidency for only twelve years out of fifty-six.

"So of the Chief Justices of the Union; the South has had three, and the North but two out of the five incumbents of that august judicial seat.

"At this moment (October 30, 1844) the Southern or slaveholding interest enjoys a monopoly of high federal office, executive, judicial, legislative, military, and naval. John Tyler, of Virginia, is President; and his Cabinet consists of John C. Calhoun, a South Carolinian, Secretary of State; George M. Bibb, a Kentuckian, Secretary of the Treasury; John Y. Mason, a Virginian, Secretary of the

Navy; Charles A. Wickliffe, a Kentuckian, Postmaster General; John Nelson, a Marylander, Attorney General; and William Wilkins, a Pennsylvanian, the single exception on the list, Secretary of War; Roger B. Taney, a Marylander, is Chief Justice of the United States; Willie P. Mangum, a North Carolinian, is President of the Senate; and John W. Jones, a Virginian, is Speaker of the House of Representatives; and Southern men stand at the head of the most important committees of both branches of Congress; Winfield Scott, a Virginian, is Major General of our army; and James Barron, a Virginian, senior officer of our navy; and, to crown all, Henry Clay, a Kentuckian, is the Whig, and James K. Polk, a Tennessean, the Democratic candidate for the next Presidency, securing to us the future as well as the past.

"If this be not the lion's share of political power, words have lost their meaning; if this be not enough to satisfy the South, she must be insatiable indeed."

All this, Mr. President, with unimportant modifications, is as true of 1850 as it was of 1844. The President and a majority of his Cabinet are slaveholders; the Speaker of the House is a slaveholder; the committees of both Houses are so constituted that the slave interest may receive no damage; and the slave States have now, as ever, a majority of the Judges of the Supreme Court. The Executive, Legislative, and Judicial Departments are in the hands of the slave power. What more can they desire?

Having referred, Mr. President, to the Supreme Court, I desire to say something further in this place of the regard paid to the security of slavery in the organization of that tribunal. No one joins more cordially than I in respectful acknowledgments of the probity, learning, and ability of the distinguished men who occupy its seats. But, eminent and upright as they are, they are not more than other men exempt from the bias of education, sympathy, and interest. It was but the other day that the honorable Senator from Mississippi, [Mr. DAVIS,] speaking of the adjustment of the Texan boundary by this Government, said:

"In referring it to the Senate, Texas referred it to a body in which at that time one-half the members had interests like those she desired to maintain. In referring it to the President, she referred it to a Southern man, whose education and association warranted a reliance both on his information and his sympathies."

What more natural than that gentlemen from the slave States, in view of the questions likely to come before the Supreme Court, should desire that a majority of its members might "have interests like those which they would desire to maintain?" Certain it is that some care has been taken to secure such a constitution of the court, and not without success. I have prepared a table showing at one view the circuits, the States composing each, and the aggregate free population in each, which I will now submit:

FREE STATES.

Circuit.	States composing it.	Free population.
First	Maine, New Hampshire Massachusetts, and Rhode Island - - -	1,632,896
Second	Vermont, Connecticut, and New York	3,030,847
Third	New Jersey and Pennsylvania - -	2,097,339
Seventh	Ohio, Indiana, Illinois, and Michigan	2,893,783

SLAVE STATES.

Circuit.	States composing it.	Free population.
Fourth	Delaware, Maryland, and Virginia -	1,246,572
Fifth	Alabama and Louisiana - - -	521,283
Sixth	North Carolina, South Carolina, and Georgia - - - - - -	1,187,410
Eighth	Kentucky, Tennessee, and Missouri -	1,569,163
Ninth	Mississippi and Arkansas - - -	258,079

From this it will be seen that in order to secure a majority from the slave States upon the bench, the circuits are so arranged that, with something less than half of the free population, the slave States have five circuits and five judges out of nine. The smallest of the slave State circuits contains little more than one-seventh of the free population of the smallest of the free State circuits; while the largest of the latter contains near twice the number of free inhabitants in the largest of the former. The four Southwestern slave States, lying contiguous to each other, are divided into two circuits, while the four Northwestern free States, with nearly four times the free population, compose but one.

Mr. President, I have spoken freely of slave State ascendency in the affairs of this Government, but I desire not to be misunderstood. I take no sectional position. The supporters of slavery are the sectionalists, if sectionalists there are. Freedom is national; slavery only is local and sectional. I do not complain at all that the offices of the country have been filled by Southern gentlemen. Let them have the offices, if they will only administer the Government in conformity with its original principles. But I do complain that it has not been so administered; that its powers have been perverted to the support of an institution which those principles condemn; and that, in consequence of this perversion, we are involved in all the difficulties of the struggle between slavery and freedom, in the midst of which we now are.

I shall now proceed still further to illustrate the character and results of the slavery extension as contrasted with the slavery restriction policy, by a comparison of the present condition of Ohio, in respect to population, area, and political power, with the seven slave States which have come into the Union since the date of her admission. I shall submit this comparison in tabular form:

State.	Date of admission.	Free population, 1840.	Area, square miles.	Votes for Pres. and V. Pres 1848.	Reps.	Senators.	El votes.
Ohio	Nov. 29, 1802	1,519,467	39,694	328,633	21	2	23
	States admitted since.						
Lou.	April 8, 1812	183,959	46,431	33,653	4	2	6
Miss.	Dec. 10, 1817	180,440	47,147	51,376	4	2	6
Ala.	Dec. 14, 1819	337,224	50,732	61,845	7	2	9
Mo.	Aug. 10, 1821	325,462	67,380	72,748	5	2	7
Ark.	June 15, 1836	77,639	52,198	16,888	1	2	3
Fla.	Mar. 3, 1845	54,477	59,268	7,777	1	2	3
Tex.	Dec. 29, 1845	104,145	148,569	12,535	2	2	4
Aggregate of States		1,263,336	471,715	236,822	24	14	38

These are the results. Ohio was admitted into the Union in 1802. She had, in 1840, upon an area of not quite forty thousand square miles, a free population of more than a million and a half, and three hundred and twenty-eight thousand voters. Seven slave States have been admitted since. They had in 1840, making the proper deduction from the enumeration of Texas in 1847 given in the table, upon an area nearly twelve times greater than that of Ohio, a quarter of a million less inhabitants, and ninety thousand fewer voters. And yet these States, having, in addition to their free population, a representative population of four hundred and fifty-six thousand slaves, have three votes more in the House of Representatives, twelve votes more in the Senate, and fifteen votes more in the electoral college. Such are the fruits of slavery extension--less population, larger area, and more political power.

And now, Mr. President, let me ask what have been the results, on a larger scale, of the subversion of the original policy of slavery restriction and discouragement, and the substitution, in disregard of the letter and spirit of the Constitution, of the opposite policy? Why, sir, instead of six slave States—for I do not reckon among the slave States New York or New Jersey, in both which emancipation was expected in 1787, and soon after actually took place—instead of six slave States, we have fifteen; instead of a majority of free States, we have an equal number of slave and free; instead of seven hundred thousand slaves, we have three millions; instead of a property estimate of them at ten millions of dollars, we hear them rated at a thousand millions, and even fifteen hundred millions; instead of slavery being regarded as a curse, a reproach, a blight, an

evil, a wrong, a sin, we are now told that it is the most stable foundation of our institutions; the happiest relation that labor can sustain to capital; a blessing to both races, the white and the black, the master and the slave.

Sir, this is a great change, and a sad change. If it goes on, the spirit of liberty must at length become extinct, and a despotism will be established under the forms of free institutions.

Mr. President, I do not know that any monument has been erected over the grave of Jefferson, in Virginia.

Mr. MASON. There is—a granite obelisk.

Mr. CHASE. I am glad to hear it. No monumental marble bears a nobler name.

Mr. SEWARD. The inscription is: "Here was buried Thomas Jefferson, Author of the Declaration of American Independence, of the Statute of Virginia for Religious Freedom, and Father of the University of Virginia."

Mr. CHASE. It is an appropriate inscription, and worthily commemorates distinguished services. But, Mr. President, if a stranger from some foreign land should ask me for the monument of Jefferson, I would not take him to Virginia, and bid him look on a granite obelisk, however admirable in its proportions or its inscriptions. I would ask him to accompany me beyond the Alleghanies, into the midst of the broad Northwest, and would say to him:

Si monumentum quæris, circumspice!

Behold, on every side, his monument. These thronged cities, these flourishing villages, these cultivated fields; these million happy homes of prosperous freemen; these churches, these schools; these asylums for the unfortunate and the helpless; these institutions of education, religion, and humanity; these great States, great in their present resources, but greater far in the mighty energies by which the resources of the future are to be developed; these, these are the monument of Jefferson. His memorial is over all our Western land—

Our meanest rill, our mightiest river,
Rolls mingling with his fame forever.

But what monument should be erected to those whose misapplied talents, energy, and perseverance, have procured, or whose compromising timidity has permitted, the reversal of the policy of Jefferson? What inscription should commemorate the acts of those who have surrendered vast territories to slavery; who have disappointed the expectations of the fathers of the Republic; who have prepared for our country the dangers and difficulties which are now around us, and upon us? It is not for me, sir, to say what that inscription should be. Let it remain a blank forever.

Without concluding, Mr. CHASE gave way for a motion to adjourn; whereupon, the Senate adjourned.

WEDNESDAY, MARCH 27, 1850.

Mr. CHASE resumed: If, Mr. President, the views which I submitted to the Senate yesterday are correct, there can be no foundation whatever for the doctrine advanced, and somewhat boldly of late, that an equilibrium between the slaveholding and non-slaveholding sections of our country has been, is, and ought to be, an approved feature of our political system. No such equilibrium, nothing looking towards such an equilibrium, can be found in the Constitution, nor in any early action under it. It was not thought of by anybody. On the contrary, the Constitution was formed for seven free States and six slave States, and with full knowledge, on the part of those who framed and those who adopted it, that provision had been made by the Ordinance for the erection of five additional free States out of the Northwestern Territory. It was equally well known that Vermont must soon come, and that Maine must ultimately come into the Union, and both as free States. Many expected also that Kentucky would come in as a free State. It is matter of history that a strong effort was made in the convention which framed her Constitution to provide for the abolition of slavery within her limits, and that this effort came very near success. On the other hand, there is nothing in history, so far as I am aware, which gives the least support to the idea that anybody wished for the extension of slavery beyond the limits of the existing States, or for the creation of any more new slave States within those limits. But, let it be conceded that it was anticipated that all the territory west of the Alleghanies and south of the Ohio would be formed into slave States, just as it has been, and where then would be the equilibrium? Four slave States—Kentucky, Tennessee, Mississippi, and Alabama—added to the six existing slave States, would make but ten; whereas the seven expected free States added to the seven existing free States, would make fourteen; thus giving to the free States, after the division of every inch of territory into States, a majority of eight in this Chamber, as well as a large majority in the other House. The truth is, sir, that this idea of an equilibrium was never started until after we began to create slave States out of territory acquired from foreign Powers. It is alien to our original policy, and inconsistent with the interests and the duty of the country.

Nor, Mr. President, is there any better foundation for the assertion that slavery and freedom are entitled to equal regard in the administration of this Government. The argument is, that the States are equal; that each State has an equal right with every other State to determine for itself what shall be the character of its domestic institutions; and, therefore, that every right acquired under the laws of any State must be protected and enforced in the National Territories as in the States whose laws conferred it. Sir, the argument does not warrant the conclusion. It is true that the States are equal, entirley, absolutely equal; it is true that each State, except where restrained by constitutional provisions, may form its domestic institutions according to its own pleasure; but it is not true that every right derived from State law can be carried beyond the State into the Territories or elsewhere; it is not true, for example, that, if a State chooses to authorize slaveholding within its limits, Congress is therefore bound to authorize slaveholding in the Territories. It is no more true than that a bank, chartered by the laws of a particular State, would have a right under that law to establish branches in the Territories, although the National Government might be constitutionally incompetent to legalize banking. Why, sir, slavery depends entirely for its existence and continuance on local law. Beyond the sphere of the operation of such law, no man can be compelled to submit to the condition of a slave, except by more unauthorized force.

I come, now, Mr. President, to consider, in the light of these general principles, the particular questions under the consideration of the Senate. The honorable Senator from Kentucky has submitted to us several propositions, which mark out a general plan for the settlement of all questions growing out of the subject of slavery. I am afraid, sir, that the plan will hardly prove comprehensive enough. If we were prepared to adopt the whole scheme, who can say that other questions and other difficulties will not arise from this prolific source of embarrassment and trouble.

The first proposition of the Senator from Kentucky relates to the admission of California. It is not now a matter of dispute whether California shall or shall not be admitted into the Union. That question is settled. No one doubts that California is to come in, with the boundaries which she claims and with the Constitution she has adopted. I concur cordially in this decision. As a Western man, I should have preferred the erection of two States rather than one out of the Territory acquired from Mexico on the Pacific; and I wish also, in common with many of the most intelligent citizens of California, that her eastern boundary had been restricted to the range of the Sierra Nevada. Under existing circumstances, however, I desire to see California come in as she is, without restriction and without delay.

But it is proposed to connect the admission of California with the general settlement of the slavery question; it is proposed also, since the recent report of a bill for her admission, and of a bill providing Territorial Governments for Utah and New Mexico, from the Committee on Territories, to give to this Territorial bill precedence over the California bill. I am opposed, sir, to both these proposi-

tions. I expect no good result, in the present state of the country, from the appointment of a committee to devise a general plan of settlement, in which the admission of California shall be included. The appointment of such an omnibus committee would excite alarm, distrust, indignation. It would not, in my judgment, inspire confidence or command respect. The task assigned to it would be an impossible work. Membership of it would be an unenviable distinction. Any adjustment that it could devise would be more likely to compromise the compromisers than to restore tranquillity to the country.

But it will be insisted that the Territorial bill for Utah and New Mexico shall have precedence of the California admission bill. That, sir, is an adjustment in another form. The design of it is palpable enough. It is expected that it will be easier to carry the Territorial bill, without any restriction as to slavery, before than after the admission of California. I do not know how this may be; but, for one, I will not consent to change the order in which the bills are reported by the committee. The country will regard, and, in my judgment, will justly regard, any change in that order, postponing the California bill to the Territorial bill, as a concession to the demand for the extension of slavery over free Territories. No such concession can ever receive the sanction of my vote.

Mr. President, the next two propositions of the Senator from Kentucky relate to the adjustment of the Texan boundary, and the assumption by the United States of the Texan debt.

It seems to me, sir, that both these questions have been brought prematurely into this discussion. I see no good reason for pressing them at this time upon the consideration of the Senate. Texas is here. Her Senators are in this chamber; her Representatives are in the other branch of the National Legislature. She is one of the United States. It is too late to question the constitutionality of her admission. And we might well leave all questions connected with the erection of new States within her limits, the liability of the United States for her debts, and the determination of her western and northwestern boundary, to be disposed of when they arise. Not one of them is important now, except that which relates to the boundary between Texas and New Mexico; and that should be determined in a bill for the government of that Territory rather than by a resolution, in forced connection with distinct matters. But as these questions are here, and have been made the subject of debate by Senators who have preceded me, I propose to state my own impressions in regard to them.

And I wish to say, in the first place, that I do not doubt the constitutional power of Congress to admit Texas. The power to admit new States is conferred upon Congress by the Constitution in the broadest and most general terms. "New States may be admitted by Congress into this Union," is the language of the Constitution. Statesmen and constitutional lawyers of great eminence have denied, I am aware, that this power was designed to extend to the admission of foreign States; but I see no such limitation in the instrument itself.

But a power to admit a new State is a very different thing from a power to covenant for the future admission of other States, to be created out of the States admitted. In my judgment the latter is as completely beyond, as the former is completely within, the powers of Congress. The question of admission must be addressed to the Congress to which the application for admission is made, and must be determined according to its own discretion, uncontrolled by any action of any preceding Congress. I do not say that Congress can propose no terms or conditions of admission, or none that will be binding. I think otherwise. I only say that one Congress cannot, upon the admission of one State, bind the discretion of a subsequent Congress in respect to the admission of other new States. This seems to me too plain for argument: but let me add a single illustration. Suppose Congress, upon the admission of a State, should agree that as soon as any district within it should contain five thousand inhabitants, it should be admitted as a State: would that stipulation bind a future Congress? I think not.

I am very far, therefore, from concurring in the views of the honorable Senator from Massachusetts in regard to the obligation to admit new slave States out of Texas. I confess, sir, that I was somewhat surprised by the argument which he addressed to us. I was aware that no one had more zealously opposed the admission of Texas than that distinguished Senator. In his strongest language—and no man uses stronger language—he had denied the constitutionality of the resolutions of annexation. After the adoption of these resolutions, and after compliance with the conditions and acceptance of the guaranties tendered by them, on the part of Texas; when, according to the argument of the Senator from Georgia, delivered upon that occasion, the faith of the Government was firmly bound, he had still spoken and voted against her admission. This determined and unyielding opposition was understood to be based not only upon a conviction of the unconstitutionality of the measure, but also upon a fixed and settled hostility to the extension of slavery, and to the increase, in either branch of the Legislature, or in any department of the Government, of the slave power. I was startled, therefore, when I heard the Senator declare, not only that he regarded the constitutionality of the admission of Texas as a matter adjudged, and not now open to question in any way, but that, when the proper time for the enactment shall arrive, Congress will be bound to admit four new slave States out of Texas. Sir, I deny this obligation. The history of those resolutions was known to the country and known to Texas. It is, and was at the time, known and well known, that those resolutions could not have been carried except upon the assurance of Mr. Polk, the President elect, that he would adopt the latter of the alternatives presented by them, which contemplated negotiation and a treaty. It is and was well known also that President Tyler, availing himself of the last days of his official power, took the matter out of the hands of the President elect, and adopted the course of proceeding authorized by the first of those alternatives.

Sir, I will go as far as any man to maintain and uphold the constitutionally plighted faith of the Government; but when a claim is put forth under resolutions, so adopted and so acted upon, it must be shown that the claim is warranted by a fair construction of the stipulation, and it must be shown further that the stipulation itself is warranted by the Constitution. We have had too much, quite too much of constitutional amendment by legislation and resolution.

Now, sir, I undertake further to say that the guaranty asserted to exist by the distinguished Senator from Massachusetts, "that new States *shall* be made out of Texas, and that such States as are to be formed out of that portion of it lying south of 36 deg. 30 min. may come in, *to the number of four*, in addition to the State then in existence, and admitted by these resolutions," is not to be found in the resolutions. In the first place, the resolutions do not say that any new States "*shall*" be formed out of Texas. They provide that "new States, not exceeding four in number, in addition to said State of Texas, *and having sufficient population*, MAY *hereafter*, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission *under the provisions of the Federal Constitution.*" Where is that absolute "*shall?*" And what are the "provisions" referred to? The *shall* does not exist. The provisions are these: "No new State shall be formed within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the States concerned, as well as of the Congress." Now, this is either an absolute prohibition upon the erection of any new State within the limits of an existing State, or it is a prohibition of such erection without the consent of Congress. It is, at least, certain, then, that the resolutions themselves make the admission of States, erected out of Texas, dependent on the consent of the Congress in being at the time the application may be made. Consent of Congress is an important qualification of the asserted guaranty. I need say no more on this point.

I will add only that, whatever may be the true construction of the resolutions, or their obligatory force under the Constitution, it is quite certain that we are under no obligation to be active at this time in carving a new State out of Texas; and there is no great reason for apprehension that Texas will soon propose to divide herself, if Congress does not meddle in the matter.

As to the Texan debt, Mr. President, I am disposed to leave that where the resolutions of annexation left it—with Texas. Let Texas keep her lands and her debt. That was the sense of Congress then, and I see no reason for any change of position. If there are debts for which the United States are liable, in default of payment by Texas, let us wait till the default is established, and then look into the amounts and grounds of liability, and do what justice and good faith require.

The unadjusted boundary of Texas presents other but not very difficult questions. The resolutions of annexation do not provide for the admission, as a State, of the entire Republic of Texas with the boundaries claimed by her. This is the language of the resolutions: "Congress doth consent that the territory *properly included within* and *rightfully belonging to* the republic of Texas, may be erected into a new State, to be called the State of Texas." All questions of boundary are reserved, subject to adjustment by the Government of the United States. The simple question then is, What territory was "properly included within and rightfully belonged to" Texas, as an independent republic, prior to annexation? Two propositions respecting this matter seem to me to be clear. *First*, all the territory between the Nueces and the Sabine, and extending north to the Red River and the Ensenada, comprehending, according to the report of the Commissioner of the Land Office, 148,569 square miles, being four and a half times as large as Ohio, was properly included within and did rightfully belong to Texas at the date of annexation, and is therefore properly comprehended within the new State; *secondly*, none of that territory north of a line drawn from Paso del Norte to the Ensenada, and with that stream to Red river, known as New Mexico or the Santa Fe country, was properly included within or did rightfully belong to Texas at that date, and none of it therefore was a part of Texas as admitted into the Union.

The territory between the Nueces and the Rio Grande, and south of Paso and the Ensenada, may be regarded as

open to controversy. Petitions have been presented in this Chamber, since the commencement of the session, from a portion of the inhabitants, declaring their conviction that the country is not within the rightful limits of Texas, and asking for a Territorial Government. Another portion recognise the jurisdiction of Texas. We need take no action at present, but may await further information and future events.

Some reliance has been placed on Disturnell's map, a copy of which is annexed to the treaty with Mexico, as showing all the territory east of the Rio Grande to be within the limits of Texas. That map is now before me, and also an earlier map, from the same plate, published in 1844, by White, Gallagher, & White. Upon this latter map the territory between the Nueces and Rio Grande, and south of the Ensenada, is represented as constituting parts of Tamaulipas, Coahnila, and New Mexico or Santa Fe. Disturnell's map was published in 1847 The plate was altered in conformity with information obtained from the Departments of the Government here. The line of the Nueces is marked as the "original boundary of Texas in 1835." The Rio Grande, below the mouth of the Puerco, is marked as the "boundary claimed by the United States." Tamaulipas no longer appears to extend across the lower Rio Grande to the Nueces. But Coahuila still extends across the river; and above Paso del Norte and the Ensenada, the whole country is designated "Nuevo Mejico, o Santa Fe." I see not what aid the claim of Texas can derive from this map, which certainly contains no language on its face which will sustain it, and which is referred to in the treaty only to fix the western and southern boundaries of New Mexico, west of the Rio Grande.

It is said also that the United States having been constituted the arbiter betweeu Mexico and Texas by the resolutions of annexation, and having become possessed of the territory in dispute by conquest or purchase, is estopped from denying the claim of Texas. Is this so? Let me put a case. Two neighbors dispute about their boundary, and refer the question to an arbiter. Pending the controversy, the arbiter buys the interest of one. Is he therefore bound to concede the tract in dispute to the other? Clearly not He has acquired the title of one, and, with it, whatever rights his grantor possessed. And it is now his business to adjust the controversy fairly and peaceably, if he can; if not, to refer it to another arbiter.

In my judgment, therefore, our plain duty at present is to provide a Territorial Government for New Mexico, which should embrace within its jurisdiction the whole country north of Paso and the Ensenada. But it does not seem to me indispensably important that the precise limits of its jurisdiction should be defined. The valley of the Rio Grande is the only part which is at present peopled, except by Indians, and the only part therefore which urgently requires an established Government. The territory between the Nueces and the Rio Grande, south of the line of New Mexico, can be left open to future adjustment, upon further information as to the views of the people and the rights of Texas.

Mr. President, the fifth, sixth, and eighth resolutions of the Senator from Kentucky embrace three propositions, which I propose to consider together:

1. That slavery in this District should not be abolished, except with the consent of the District and of Maryland.

2. That the slave trade in this District ought to be abolished.

3. That Congress has no power to prohiblt the slave trade among the States.

I concur fully in the second of these propositions, and thank the honorable Senators from Kentucky [Mr. CLAY] and from Alabama [Mr. KING] for the favor they have shown to this measure.

I cannot concur in the first proposition. I have already said that, in my judgment, the Constitution confers on Congress no power to enforce the absolute subjection of one man to the disposal of another man as property. It is my opinion that all legislation adopted or enacted by Congress for enforcing that condition ought to be repealed, whether in this District or elsewhere. I listened with great pleasure to the emphatic declaration of the Senator from Kentucky, in respect to the extension of slavery by Congress, that he would give "no vote to propagate wrongs?" What wrongs? Why, sir, those wrongs, multiplied and complicated, which are summed up in one word—SLAVERY. And where is the warrant for this comprehensive coudemnation of slavery? It is found in that LAW to assert the supremacy of which here seems to some so censurable—that law of sublimer origin and more awful sanction than any human code, written in ineffaceable characters upon every heart of man, which condemns all injustice and all oppression as a violation of that injunction which commands us to do unto others as we would that others should do unto us.

If the Senator from Kentucky was right—and who did not feel that he was right?—in saying that he would give no vote to *propagate wrongs*, am I not right in saying that I will give no vote to *perpetuate wrongs?* Sir, I will give no vote for the perpetuation or continuance of slavery in this District. I deny any implied obligation to the people of Maryland to continue slavery here as long as it is continued there. No evidence can be produced of any such understanding. The state of public sentiment in Maryland and in Virginia at the time of the cession warrants the belief that the understanding and expectation, if there was any, was very different from that supposed. But, whatever the understanding or expectation may have been, our duty seems to me plain. The power of exclusive legislation over this District is confided to us. We are bound to use it so as to establish justice and secure the blessings of liberty for all within its reach.

I was surprised, Mr. President, by the proposition that Congress has no power to prohibit the slave trade between the States. Why, sir, that trade is prohibited now, except upon certain conditions. It is prohibited in vessels of less capacity than forty tons. Not a slave can be shipped coastwise without a permit from an officer of the United States; not a slave shipped can be landed without such a permit. Any one who will take the trouble to cousult the act of 1807 will see how this matter stands. I do not think that law unconstitutional. The Constitution confers on Congress power "to regulate commerce among the several States." Congress exercised this power in enacting that law. If they might enact that, they may enact others. If they can prohibit the trade in vessels of less than forty tons, they can prohibit it in vessels of one hundred—five hundred—altogether. And why should not Congress prohibit this traffic? We hear much of the cruelty of the African slave trade. Our laws denounce against those engaged in it the punishment of death. Is it less cruel, less deserving of punishment, to tear fathers, mothers, children, from their homes and each other, in Maryland and Virginia, and transport them to the markets of Louisiana or Mississippi? If there be a difference in cruelty and wrong, is it not in favor of the African and against the American slave trade? Why, then, should we be guilty of the inconsistency of abolishing *that* by the sternest prohibition, and continuing *this* under the sanction of national law?

The seventh proposition of the Senator from Kentucky contemplates more effectual provision for the extradition of fugitive slaves.

I was sorry to hear the Senator from Massachusetts say, the other day, that he proposed to support the bill on this subject, with the amendments to it, reported from the Judiciary Committee, "with all its provisions, to their fullest extent." I ask Senators, who propose to support that bill, where they find the power to legislate on this subject in the Constitution? I know to what clause I shall be referred. I know I shall be told that the Constitution provides that "no person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due." But this clause contains no grant of legislative power to Congress. That power is conferred exclusively by special clauses, granting legislative power in respect to particular subjects, and by the eighth section of the first article, which, after enumerating the specific powers of Congress, proceeds to declare that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Goverumeut of the United States, or in any department or officer thereof."

Now, sir, what power is vested, by the clause in relation to fugitives from service, in the Government, or in any department or officer of the Government? None at all; and if none, then the legislative power of Congress does not extend to the subject. The clause is a clause of compact. It has been so denominated by every Senator who has had occasion to speak of it. The honorable Senator from Massachusetts told us that he "always thought that the Constitution addressed itself to the Legislatures of the States, or to the States themselves; that he had always been of the opinion that it was an injunction upon the States themselves." If this opinion be correct, the power of legislation and the duty of legislation must be with the States, and not with Congress.

Mr. BUTLER. I interrupt the Senator merely with a view to obtain what I regard as important to the consideration of this matter. If some of the States who are parties to this compact refuse to pass such laws as will fulfil their obligations, where is the remedy?

Mr. CHASE. I know of no remedy. None has been provided by the Coustitution. But let me put a question to the Senator from South Carolina. The Constitution provides among these articles of compact, of which the stipulation in regard to fugitives from service is one, that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." Now, I ask the Senator if he admits, that, under that clause, Congress has power to provide penalties for the imprisonment of colored citizens of Massachusetts in the ports and under the laws of South Carolina?

Mr. BUTLER. I take the broad ground that each State has a right to prescribe its own qualifications of citizenship. In all the old acts of Congress the class of persons referred to by the Senator are spoken of as persons of color as contra-distinguished from citizens. I believe it is in the power of every State to make a full citizen of a black man, but not to make him a full citizen of any other

State. The definition of a citizen in South Carolina is not governed by what may be the definition of a citizen in another State. I believe that each State can determine the qualifications of voters, and control as it pleases the rights of different classes of persons. But the Senator has not answered or met the question I have asked, and that is, in case a State refuses to carry out the provisions of the article in the Constitution, where is the power to compel it to do so?

Mr. CHASE. I certainly answered the Senator distinctly and candidly. I said I knew of no remedy in case of the refusal of a State to perform its stipulations. The obligation of the compact and the extent of the compact are, as in every other case of treaty stipulation, matters which address themselves exclusively to the good faith and sound judgment of the parties to it. But did the Senator answer my question? He has not told us whether, in his judgment, the General Government has power to enforce that constitutional compact which guaranties to the citizens of each State the rights of citizens in all the States. He has told us that each State determines for itself who shall be its citizens. I grant it. He says one State cannot determine who shall be a citizen of another. That may be so. But when a State has once determined who its own citizens shall be, the compact stipulates that they shall have the privileges of citizens in every other State. Not that they shall *be* citizens—not that they shall be admitted to the elective franchise, or be made eligible to office; but that they shall have those rights and immunities, that security and that protection to which citizens generally, male or female, minors or adults, are entitled. My question was: Has the General Government, in the judgment of the Senator, power under the Constitution to enforce the performance of this stipulation in South Carolina?

But I have been drawn aside from the line of argument I intended to pursue.

I repeat, Mr. President, that this clause in relation to fugitives from service is a clause of compact. For many years after the adoption of the Constitution it was so regarded. It was not much discussed, and the limits of the respective powers of the State and Federal Governments under it were not very accurately settled. But nearly all the States legislated under it, and adopted such provisions for the extradition of fugitives as they deemed consistent with the security of the personal rights of their own inhabitants. At length, however, the Prigg decision was made, which asserted the exclusive right and duty of Congress to legislate on this subject, and denied that right and duty to the States. The same decision suggested, what every one here will admit, that Congress could not require State officers to intervene in the business of extradition. It need surprise no one that after this the States ceased to enact extradition laws, or that some of them repealed those they had before enacted, and prohibited the intervention of their officers.

But, sir, a decision of the Supreme Court cannot alter the Constitution. If Congress had no power to legislate on this subject before the decision, Congress has none now. The decision determined the case before the court. It established a precedent for the determination of such cases. It must stand till overruled. But I do not see how any Senator who finds himself unable, after the fullest consideration, to concur in the principle of the decision, can justify himself in the exercise of a power which he does not believe the Constitution has conferred.

What, sir, is the history of this clause and the clauses of like character which stand with it in the Constitution? This clause was taken from the Ordinance of 1787. In the Ordinance no one preteuds that it was anything more than an article of compact. No power was derived from it to the Government. Three other clauses of the same nature are found in the same article of the Constitution: one stipulating for the extradition of fugitives from justice; another stipulating that the citizens of each State shall have the immunities of citizens in all the other States; and a third stipulating that full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. All these clauses are taken from the articles of Confederation, where they stood as articles of compact, binding the good faith of the States, but conferring no power on the Government. Can a good reason be given by any one why they should have a different operation in the Constitution? It seems evident that the framers of the Constitution did not suppose that the General Government could enforce the execution of these clauses or any of them without special provision. For, coupled with the clause respecting records, we find a special power conferred on Congress to "prescribe, by general laws, the manner in which the record shall be proved, and the effect thereof." This grant of a special power in respect to records, and this omission to grant any power in respect to the other subjects, affords the strongest possible implication that the Constitution-Convention did not design to grant any such power. Had the grant of the special power as to records been omitted, that clause would have been a stipulation precisely like the other clauses, and having the same effect; no more, no less; no narrower, no broader. It would have been binding on the States; but no power could have been derived from it to Congress. To enable Congress to legislate, a special grant was necessary. The omission of any special grant of power to legislate upon the subject-matter of the other clauses must, then, have been designed, and must have been intended, as a denial of such power.

Are Senators prepared to adopt the broad proposition upon which the Supreme Court rested and were obliged to rest the assertion of the power to legislate for the extradition of fugitives, namely, that wherever the Constitution confers a right or enjoins a duty, a power arises to the Federal Government to enforce the right or compel the duty? Are they prepared to carry this doctrine into its practical results? Is it not obvious that it will open a new and very copious source of powers to the General Government; and that it must tend to the subversion of the rights of the States and the establishment of a consolidated central power, dangerous to their independence and sovereignity?

I have said, Mr. President, that the several clauses providing for the extradition of fugitives from justice, and fugitives from service, and for the security in all the States of the rights of the citizens of each State, are in the nature of treaty stipulations, to be carried into effect by the appropriate action of the State Governments. What that action should be it is for the State Governments to determine. It is for them to ascertain the true import of the terms of the compact, and to provide for its execution by such legislation as will guard equally the just rights of all parties. But, sir, those States who claim the performance of the compact from their sister States must see to it that they perform it themselves. A State which imprisons, without pretence of crime, the citizens of another State, cannot demand, with a good grace, the surrender of fugitives.

But, sir, if it be granted that Congress has the power to legislate, are we bound to exercise it? We have power, without question, to enact a bankrupt law, but no one proposes such a law; and, if proposed, no one would feel obliged to vote for it, simply because we have power to enact it. We have power to declare war, but to declare war, without just cause, would be, not a duty, but a crime. The power to provide by law for the extradition of fugitives is not conferred by any express grant. We have it, if we have it at all, as an implied power; and the implication which gives it to us is, to say the least, remote and doubtful. We are not bound to exercise it. We are bound, indeed, not to exercise it, unless with great caution, and with careful regard, not merely to the alleged right sought to be secured, but to every other right which may be affected by it. Were the power as clear as the power to coin money or regulate commerce, still it should not be exercised to the prejudice of any right which the Constitution guaranties. We are not prepared, I hope, and I trust we never shall be prepared, to give the sanction of the American Senate to the bill and the amendments now upon our table—a bill which authorizes and requires the appointment of two hundred and sixty-one commissioners, and an indefinite number of other officers, to catch runaway slaves in the State of Ohio, which punishes humanity as a crime; which authorizes seizure without process, trial without a jury, and consignment to slavery beyond the limits of the State without opportunity of defence, and upon *ex parte* testimony. Certainly no such bill can receive my vote.

It is further proposed, Mr. President, by the Senator from Kentucky, to establish Governments for the Territories acquired from Mexico, without any prohibition of slavery. He proposes also to declare by resolution that slavery does not now exist in those Territories, and is not likely to be introduced into them.

Mr. President, no question has been more discussed of late years than this of the territorial prohibition of slavery. Upon the rostrum, in legislative halls, in the street, by the fireside, everywhere, it has been a topic of debate, appeal, and conversation. From the moment that it became evident that the Mexican war must result in vast accessions of domain, an earnest desire, which soon matured into fixed determination, was manifested by a large majority of the American People that slavery should be forever excluded from the new acquisitions. It was honorable to the Northern Democracy that the first proposition to impress forever, upon the soil of the new territory, the signature and seal of freedom, came from a Northern Democrat, distinguished for fidelity to Democratic principles, and was received with favor by the great body of his political associates. It was equally honorable to Northern Whigs that they were not deterred by its Democratic origin from giving to the Proviso of Freedom a generous and general support. It was a revival, after the lapse of sixty-two years, of the territorial policy of Jefferson, and, however it may now serve particular ends to depreciate or deride it, the country will at last do justice to the measure and its author.

During the last Presidential canvass, it was hard to find in the free States an opponent of slavery prohibition. The people had considered the subject, and had made up their minds. There was no need, therefore, of argument to establish the correctness of the principle or the necessity of the measure. The only contest was upon the question, whose election was most certain to secure the exclusion of slavery from the Territories.

On the Whig side, it was urged that the candidate of the

Philadelphia Convention was, if not positively favorable to the Proviso, at least pledged to leave the matter to Congress, free from Executive influence, and ready to approve it when enacted by that body. Great stress, therefore, was laid upon the selection of Representatives and Senators devoted to this great measure; and it was asserted that if a majority of the members of the House and a Vice President, holding the casting vote in this body, could be elected favorable to the Proviso, the freedom of the Territories would be secure.

It happened that the distinguished statesman who received the nomination of the Baltimore Convention for the Chief Magistracy had written a letter shortly before that event, in which he avowed a change of opinion in regard to the Proviso, which had resulted in a conviction that Congress had no constitutional power to enact it. Notwithstanding this letter, many of his friends in the free States persisted in asserting that he would not, if elected, veto the Proviso; many also insisted that he regarded slavery as excluded from the Territories by the Mexican laws still in force; while others maintained that he regarded slavery as an institution of positive law, and Congress as constitutionally incompetent to enact such law, and held therefore that it was impossible for slavery to get into the Territories, whether Mexican law was in force or not. It was claimed accordingly with great confidence that, in the event of the election of that eminent citizen, slavery would be as effectually excluded from the Territories by the action of the Administration as it could possibly be by the Proviso.

Not satisfied with the positions or the nominations of either of these candidates, a great body of Independent Democrats, Progressive Whigs, and Liberty men, united upon a platform of Democratic principles and measures, under the banner of Free Democracy, in support of a Democratic statesman who had already been honored with the Chief Magistracy, and whose opposition to the extension of slavery and cordial approval of the great measure of prohibition which had received a sanction so unanimous from the people, was well known and undoubted.

Well, sir, professions of devotion to Free-Soil principles, liberally and even prodigally made by the supporters of the Philadelphia and Baltimore nominees, reinforced by party discipline and party attachments, so far prevailed with the people that the nominee of the Free Democracy received only about three hundred thousand votes.

As between the other candidates, the argument addressed to the people by the friends of the Philadelphia nomination was in substance this: prohibition is essential to the certain exclusion of slavery from the Territories; if the Democratic candidate shall be elected, prohibition is impossible, for the veto will be used: if the Whig candidate shall be elected, prohibition is certain, provided you elect a Congress who will carry out your will: vote, therefore, for the Whig candidate.

This argument, doubtless, had its weight. At all events, the people acted upon the theory which it suggested. They did their part. They elected the Whig candidate. They instructed, through the State Legislatures, one-half the Senators to vote for the great measure of prohibition; they elected a Vice President recommended to them as unequivocally and heartily in favor of it; and they placed in the House of Representatives a decided majority pledged to its support.

What then? We came here; and, sir, it does seem to me that when we get here we are apt to forget that there is a PEOPLE, and that we have CONSTITUENTS. We seem to be more desirous to reach results which will satisfy controlling influences here, than to meet the just expectations of those whose representatives we are. Why, sir, every one knows that at the commencement of this session there was a decided and apparently fixed majority in the other branch of Congress in favor of the Proviso, and that in this Chamber half or nearly half the members were instructed to vote for it. And yet now we are told, and told by Senators who but recently were foremost in zealous advocacy of this measure, that it is unnecessary, and offensive to the South, and should be abandoned. Plans of compromise and arrangement, every one of which involves the surrender of this great vital principle, are brought forward and urged upon us.

I do not understand, sir, how it is that a measure which fully harmonizes with the original policy and the early precedents of the Government, and which once received the unanimous sanction of the entire South, can now justly be regarded as offensive by that section of the country. If it was right and acceptable to abolish existing slavery and prohibit future slavery in the Northwestern Territory in 1787, the prohibition of the extension of slavery into the territory acquired from Mexico, where no slave now exists, cannot be just cause of offence in 1850. At all events, sir, we must do our duty. We should not, we must not, be moved from it by any appeal addressed to sympathy and not to judgment.

But we are told, also, that the Proviso is unnecessary; and this, too, by the honorable Senator from Massachusetts, who, less than two years ago, without reservation or qualification, declared his full adhesion to its "whole doctrine." Then there was great danger, in his judgment, that slavery would find entrance into the Territories, if the Democratic candidate should be elected; for, in that event, prohibition would be out of the question. Now, it is discovered that prohibition is unnecessary! Slavery is excluded—so the Senator informs us—from California and New Mexico "by the law of nature, of physical geography, the law of the formation of the earth." And he tells us he would "not take pains to reaffirm an ordinance of Nature, nor to re-enact the will of God."

I wish, Mr. President, that the honorable Senator had told us that in 1848. I wish that the people could then have heard something of this law of nature, of physical geography, of the formation of the earth, which makes the Territories acquired from Mexico forever inaccessible to slavery. I cannot help thinking that the result of the election would have been somewhat different if these views had been then understood to find favor with the supporters of the Philadelphia nomination.

Sir, this law of nature is not, I suppose, of recent origin. It existed in 1848, if it exists at all. The clear vision which can read it now, written so plainly in the formation of the earth—descending so visibly from the throne of God—discerned it doubtless then. Why was it not then announced?

I must be allowed to say that, in my judgment, there is a difference between the full and entire commitment to the "whole doctrine" of the Proviso which the Senator avowed in 1848, and his recent declaration that, in a bill for the Government of New Mexico, a prohibition of slavery would be an "entirely useless, and, in that connection, entirely senseless Proviso." Useless and senseless, because it would be a re-enactment of the will of God! Sir, I should like to know what laws we are to enact, if we are not to re-enact the will of God? There is *another* power: are *His* the laws which we should re-enact? Sir, all just legislation must be a re-enactment of the Divine will. The rights of human nature are not derived from human law. Men are "*created* equal:" "they are endowed by their Creator with inalienable rights." Aggressions upon these rights are crimes. It is the duty of every Legislature to frame all law with paramount regard to the prohibition of these aggressions and the security of these rights.

But, sir, is it quite true that any law of physical geography will protect the new Territories from the curse of slavery? Peonism was there under Mexican law: and where there is compulsory servitude for debt, lifelong and inevitable, chattel-slavery is not far off, if the law will permit it. But if peonism were not there to warn us what may be expected if slavery be not prohibited, could we, as rational legislators, find an excuse in the physical circumstances of the country for abandoning the Proviso? It is said to be "Asiatic in formation and scenery." Are there no slaves in Asia? But the soil is cultivated by "irrigation." Well, sir, will the fact, if it be a fact, that the sun shines from a cloudless sky, and waters to refresh the earth must be drawn from the streams which snow-capped hills supply: will this exclude slavery? But the lands are poor. Sir, who knows that? Much of the vast region over which we are to extend Territorial Governments is wholly unexplored. In other parts there is, as everywhere else, good land and poor land. Certainly there are mines, and in no employment has slave labor been more commonly or more profitably used.

Let us take care that we do not deceive ourselves or mislead others. Neither soil, nor climate, nor physical formation, nor degrees of latitude, will exclude slavery from any country. Can any gentleman name a degree of latitude beyond which slavery has not gone? Or any description of country to which it has not, at some time, found access? It is acknowledged, and has been for years acknowledged, to be unprofitable in several of the existing States; and yet no State, except New York and New Jersey, which obeyed the impulse of the Revolution and of its doctrines, has abolished slavery since the organization of this Government. The truth is, that so long as a powerful and active political interest is concerned in the extension of slavery into new Territories, it is vain to look for its exclusion from them except by positive law. It has been repeatedly stated by gentlemen from the slave States, in the course of this debate, that nothing prevented slave emigration to California except the anti-slavery agitation and the dread of the Proviso.

Mr. President, there are some Senators who place no reliance on configuration, or climate, or other physical conditions, for the exclusion of slavery, but seem to rely with some degree of confidence on the Mexican law to secure that object. I do not concur in this reliance. The Mexican law remaining in force in the Territories, should secure, in my judgment, the freedom of all the inhabitants at the date of acquisition. In my judgment, also, neither the Government of the United States nor any Territorial Government is or can be constitutionally authorized to institute slavery, any more than a monarchy, or a national religion, or the inquisition. But, sir, I know very well that Mexican law can be changed as soon as a Territorial Legislature is established; and I know, also, that my view of the constitutional limitations upon the power of this Government and of Territorial Governments, in respect to their competency to establish and maintain slavery, is not acknowledged as correct by the statesmen and jurists of the slave States. Give me an Administration of this Government fully im-

bued with this view, heartily favorable to the perpetuation and extension of human freedom, and heartily opposed to the perpetuation and extension of human slavery, and I would not ask for any legislative prohibition. The spirit of such an Administration, the judicial action which it would secure, and, above all, the Constitution so interpreted and enforced, would be Proviso enough.

But we have no such Administration. On the contrary, we know that distinguished gentlemen, who are among its most prominent supporters, assert and insist that under the Constitution, and in virtue of its provisions, the Government of the United States is as much bound to protect and maintain, within national territories, every slaveholding emigrant in the full possession, control, and disposal of his slaves, as it is to protect and maintain any other emigrant in the possession, control, and disposal of any species of property whatever. In this position leading gentlemen on the other side of the Chamber agree with them. In other words, they insist that, by the operation of the Constitution itself, slavery became lawful in the Territories from the date of the acquisition. There is a pretty general concurrence among Senators from the slave States of both political parties in this position. I should be glad to be assured that there are no Senators from the free States who concur in it. I regret that the Senator from Massachusetts, whom I am sorry not to see in his seat to-day, did not see fit, when he addressed the Senate lately, to state his views upon this subject. If I recollect aright, that distinguished Senator, when occupying another high position in the Government, in a diplomatic despatch of great ability, maintained the doctrine that, under the Constitution of the United States, men might be held as property in American vessels upon the high seas, beyond the limits of any State, and this upon the ground that such vessels were to be regarded in the same light as national territory. If the honorable member does in fact hold this opinion, I do not see that he differs widely, or at all, as to this matter, from the Senator from Georgia, [Mr. BERRIEN.] or the Senator from Alabama, [Mr. KING.] I need not say that I wholly dissent from it.

In the midst of this variety of opinion, and under the circumstances which surround us, when it is well known that nearly every Senator from the slave States insists that slavery should be permitted in the Territories, and most of them expect that, if permitted, slavery will be introduced there, it seems to me worse than ordinary folly for those who really desire its exclusion to reject the simple, and obvious, and certain preventive of prohibition. That we have the power to prohibit is clear, if we have any power to legislate for the Territories at all. That we have the power to legislate I shall not pause to argue. I know of but one Senator who denies it; and even that distinguished gentleman, [Mr. CASS,] though he cannot find power to establish Territorial Governments, declares himself ready to assume it, on the ground of necessity. If he is willing to assume that power, it is difficult to see why he should not be willing, in exercising that power, to establish Governments upon principles which will secure to every individual under them the blessings of personal liberty. For myself, I cannot doubt upon the subject. The power to provide Governments for the Territories, and to prescribe just limits to their action, is clearly given by the Constitution. It has been exercised under every Administration, and by nearly every Congress since the organization of the Government. Whatever differences of opinion there may have been, as to the existence or limits of other powers, there has been very little as to this. The power to prohibit slavery in the Territories is, in my judgment, clear and indisputable; and the duty of exercising it is imperative and sacred.

But, we are told that if Congress prohibit slavery in the Territories, or abolish slavery and the slave trade in this District, or fail to provide adequate securities for the return of runaway slaves, the South will dissolve the Union! This cry, Mr. President, neither astonishes nor alarms me. I have never thought, nor do I now think, that any man should be deterred by it, from an honest, fearless discharge of his duty here. It is an old cry, not without profit to those who have used it. It was first heard in the Congress of 1774. The student of history who examines the Non Importation and Non-Exportation Agreement of that Congress, will be struck by a singular exception in the Non-Exportation Article. I have already had occasion to remark that the Agreement itself was designed to secure a redress of American grievances from the Government of Great Britain by a suspension of commercial intercourse. The Non-Exportation Article bound the colonies and the people not to export any American commodity to Great Britain, Ireland, or the West Indies, with this remarkable qualification, "except rice to Europe." How came this exception there? Why, sir, the staple of South Carolina was rice, and the delegates of South Carolina in that first Congress, when the struggle with Great Britain was impending, and union was all-important to its successful issue, threatened to withdraw from the Congress and break up the Association, unless South Carolina could be permitted to export rice and indigo. This proceeding occasioned a suspension of the business of the Congress for two or three days. Finally, it was determined to complete the Association without conceding the South Carolina demand, and thereupon her delegates, except one, withdrew. They were invited to return, and a compromise was proposed, to allow the exportation of rice, but not of indigo. I have consulted Pitkin's Statistics, and I find that the export of rice in 1770 was about one hundred and sixty thousand barrels, valued at fifteen hundred and thirty thousand dollars. I find no mention of indigo. Of course the compromise was agreed to, and the words "except rice to Europe" added to the Non-Exportation Article. It was a model for all future compromises. South Carolina got what was substantive, and surrendered what was unimportant. This was the first utterance of the disunion cry, and this was its first result.*

The Journals of the old Congress inform us that in 1783 a resolution was adopted, establishing the seat of Government at the Falls of the Delaware. Much dissatisfaction was manifested by the South. Some persons, it seems, became alarmed, and a motion was made to reconsider, in order to fix on some place more "*favorable to the Union*," and approaching "nearer to that justice which is due to the Southern States,"† All this terminated in another compromise. It was agreed that two seats of Government should be established—one on the Delaware, and the other on the Potomac. The final result was the establishment, by the action of Congress under the Constitution, of the seat of Government in this District, and the abandonment of the location originally agreed on.

In the Convention which framed the Constitution the same cry was heard. South Carolina and Georgia declared they could not come into the Union unless they could have the privilege of importing slaves.‡ And, notwithstanding the sense of the Convention was strong and almost unanimous against the traffic, for the sake of the Union another compromise was agreed on. Slavery was allowed all it demanded for twenty years; after which, Congress might suppress the trade if it should see fit.

In 1820 the Union was again menaced. The cry now was, "admit Missouri as a slave State, or we will dissolve the Union." Great alarm was excited. Propositions for compromise were multiplied, and the contest finally terminated, as usual, by conceding to slavery all it then demanded, with a set-off to freedom in the prohibition of slavery in all the territory acquired from France north of 36 deg. 30 min., except that within the limits of the new State.

The same play was enacted in 1832 and 1833. Then the ground of complaint was the tariff. South Carolina pushed the disunion remedy to nullification. General Jackson was at the head of the Government, unterrified. But in Congress great apprehension was manifested, and a desire to concede almost everything rather than to risk the consequences of a decided course. Another compromise was effected. The protective policy was abandoned by its great champion, and a scale of reduction of duties adopted, which in ten years overthrew the tariff. For one, Mr. President, I do not complain of the reduction of duties; but I would prefer to see a plan of reduction adopted calmly, considerately, not under the dictation of any cry, but in conformity with a sound and liberal judgment.

Well, sir, between 1830 and 1835 the anti-slavery agitation commenced, and soon became formidable. Then again we heard the cry of disunion. The demand now was suppression of the freedom of speech and the press, and of the right of petition; in brief, silence on the subject of slavery, and forbearance of all action against it. The alternative denounced was dissolution of the Union. The agitation, however, was not suppressed; anti-slavery societies increased and multiplied; they made themselves felt everywhere. Well, was the Union dissolved? Not at all. It stands yet, and will stand, I trust, forever. The menace was as earnest, as emphatic, as violent as ever, but it came to nothing. It had the same termination which would have attended all similar preceding menaces, had they been calmly disregarded.

In 1844 the annexation of Texas was demanded by the slave States. It had been a favorite object for many years, and it seemed brought within their grasp. They became, accordingly, extremely urgent, and resorted to the South Carolina specific. They raised the cry, "Texas or disunion." The distinguished Senator from Missouri, always devoted to the Union, took the trouble to direct public attention, in an appendix to a speech of his on the subject of Texas, delivered in that year, to some samples of these threats. They are worth looking at now. Well, sir, under these influences, in part, Texas was brought into the Union. I say "in part," because I am well aware that other influences contributed largely to the result; and among these influences not the least powerful was a generous sentiment of the Democracy of the country in favor of the extension of the American Union—a sentiment which made them willing to accept Texas with slavery, and trust to the future for her deliverance from that evil and reproach.

And now, sir, we have the last republication of this old story. Now we are threatened with dissolution of the Union unless we will consent to what no republican Government ever did consent to; what is in direct opposition to the principles and spirit of our institutions, and is condemned by the earliest and best precedents of our history;

* American Archives, 4th Series, Vol. I. p. 1111.
† 4 Jour. Cong. Confed., 288. ‡ 3 Mad. Pap., 1389.

namely, the extension of slavery into Territories now free! Shall we yield to this outcry? For one, I say, never! In my judgment, it is time to pause. We have yielded point after point; we have crowded concession on concession, until duty, honor, patriotism, shame, demands that we should stop.

But we are told, almost with the tone of taunt, that the free States have had the majority all this time in one branch of Congress at least, and in the electoral college, and, therefore, that whatever responsibility there may have been in making these concessions to slavery, it is upon them. It is well to remind us of this. The free States have had the majority; and the victories of slavery have been won by their divisions. John Randolph said, long ago, "We of the South are always united and can always unite; while you of the North divide. We have conquered you once, and we can and we will conquer you again." These two sentences make a history.

I do not say, and I do not mean to say, that there has been but one political party in the slave States; but that, in these States, fidelity to the interests of slavery has always been, in both parties, an indispensable condition of support for high public station; and that great numbers, in either party, have always been ready to support a candidate of opposite general politics, if undoubted on this question, rather than a candidate of like general politics at all suspected of disfavor to slavery. No candidate known to be in favor of placing the legitimate influence of this Government actively and decidedly on the side of freedom, could receive the support of either party. It is by this unity of sentiment and purpose, aided by appeals to groundless fears for the safety of the Union, and by a disposition growing out of these fears and party alliances to submit to the tests imposed by the slaveholding sections of each political party, that the slave States have "conquered."

Mr. DAWSON. While the Senator is writing the history of the times, I trust he will do it correctly. The South has never opposed any man because he was in favor of freedom. The South has selected between gentlemen, and those who were against interfering with the constitutional rights of the South have always been supported by them. They are opposed to interference with their constitutional rights only; and the Senator is wrong to say that they opposed any one because he belongs to the free States, or is in favor of freedom.

Mr. CHASE. I shall always be ready to accept any correction, from any Senator, of any erroneous statement I may make. But, sir, what is meant by the "constitutional rights of the South?" Who refuses to support "the constitutional rights of the South?" Nobody here, certainly. But what are they? Sir, when gentlemen from the slave States ask us to support the Constitution, I fear they mean only their *construction* of the Constitution. Every concession which has ever been made to slavery, every concession now demanded, was and is claimed under this same plea of "constitutional rights." I will ask the Senator from Georgia whether he does not hold that it is the "constitutional right" of every citizen of the slave States to take his slaves into the Territories, and to be protected in holding them there by the laws of this Government?

Mr. DAWSON. I do.

Mr. CHASE. So I supposed. Such, also, I understand to be the opinion of the Senator from Alabama, [Mr. KING,] whose abilities and virtues command such general respect. He holds, if I understand aright some recent remarks of his, that the General Government is bound by the Constitution to recognise and protect the rights of masters in slaves to the same extent and in the same manner as the rights of owners in any description of property whatever. I would inquire of the Senator if I understood him correctly?

Mr. KING. I believe that whenever a Territorial Government is established, if persons holding slaves think proper to go there with them, this Government is bound to protect them until the period arrives when the population is sufficient for the formation of a State Constitution. Then, we of the South hold, I believe without exception, that the people thus forming a State Constitution have a right to prohibit or to permit slavery at their pleasure, and that Congress has no right to prevent the new State from coming into the Union on that ground, but can only look at its Constitution to ascertain whether it is republican in its character. Am I understood?

Mr. CHASE. Fully. The doctrine of the Senator is precisely that of the Senator from Georgia. We understand now, from both sides of this Chamber, what is meant when we are called on to maintain "the constitutional rights of the South." So far as the matters now under discussion are concerned, it means that we must recognise and maintain by legislation the claim of citizens of the slave States to take slaves into the Territories and hold them there under National Government and Territorial Government, until the Territory becomes a State, and then we are bound to admit the State into the Union with a Constitution establishing slavery, if such should be the Constitution adopted. And no citizen who refuses his assent to this doctrine; who believes that this Government of ours cannot, under the Constitution, sustain any claim of property in slaves beyond State limits; who opposes, openly and decidedly, the extension of slavery into the Territories, can receive the support of either political party in the slave States. Both parties agree in establishing this test.

We cannot shut our eyes to the fact that this test is made. It is stamped upon every page of our political history for fifty years. Let it be made, if gentlemen desire. I only say, for one, that I will not submit to it. For myself, I prefer a political platform which will have the same meaning in Georgia as in Maine, and candidates who cannot be represented in the North as in favor of freedom, and in the South as supporters of slavery. The policy of silence with reference to important measures and principles, and the policy of ambiguous expressions, are equally obnoxious. Both mislead public judgment; and whether the party which adopts the former, or the party which adopts the latter, succeeds, one or the other section of the country must be disappointed.

Mr. President, honesty is the best policy; justice, the highest expediency; and principle, the only proper basis of union in a political organization. Holding fast as I do to democratic principles; believing firmly that all men are created equal, and are endowed by their Creator with inalienable rights to life and liberty, I desire to see those principles carried out boldly, earnestly, resolutely, in the practical administration of affairs. I wish to see the powers of this Government exercised for the great objects which the Constitution indicates: for the perfection of our Union; for the establishment of justice; for the common defence; for the security of liberty. At the same time I do not desire to see this Government, under the influence of any zeal, however honorable, for freedom, transcend at all the sphere of its constitutional powers and duties. While, therefore, I shall steadily support all proper legislation for the establishment and security of freedom in the Territories and elsewhere within the sphere of exclusive national jurisdiction, I shall, as steadily, refuse my support to all legislation on the subject of slavery within the States. In this line of action I shall feel myself supported by the precepts of the sages of the revolutionary era, by the example of the founders of the Republic, by the original policy of the Government, and by the principles of the Constitution.

I cannot believe that there is danger in such a course. Least of all does the stale cry of disunion alarm me. Men, generally, adapt remedies to evils. But what evil that the slave States complain of will disunion cure? Will it establish slavery in the Territories? Will it procure the return of fugitives? Will it suppress discussion? Will it secure slavery where it is? Sir, all men must see that disunion is no remedy for the slave States. Why then the cry, if not to alarm the timid, the sensitive, the unreflecting—to afford excuses for concession—and thus secure advantages which the sober judgment and enlightened conscience of the country would never yield?

Mr. President, I have never calculated the value of the Union. I know no arithmetic by which the computation can be made. We of the West are in the habit of looking upon the Union as we look upon the arch of heaven, without a thought that it can ever decay or fall. With equal reverence we regard the great Ordinance of Freedom, under whose benign influence, within little more than half a century, a wilderness has been converted into an empire. Ohio, the eldest born of the Constitution and the Ordinance, cleaves and will cleave faithfully to both. And now that the time has come when vast accessions of free territory demand the application of those principles of the Ordinance, to which she is indebted for her prosperity and power, to guard them against the blighting influence of slavery, she will insist that the same protection shall be extended to the Territories which was extended to her.

Nor are these the sentiments of Ohio alone. They are the sentiments of the people throughout the free States. Here and there the arts or the fears of politicians or capitalists may suppress their utterance; but they live, and will live, in the hearts of the masses. There is no great and real change in those opinions and convictions which placed a majority pledged to Free Soil in the other wing of the Capitol. It may be, however, that you will succeed here in sacrificing the claims of freedom by some settlement carried through the forms of legislation. But the people will unsettle your settlement. It may be that you will determine that the territories shall not be secured by law against the ingress of slavery. The people will reverse your determination. It may be that you will succeed in burying the Ordinance of Freedom. But the people will write upon its tomb, *Resurgam*;* and the same history which records its resurrection may also inform posterity that they who fancied they had killed the Proviso, only committed political suicide.

* "I shall rise again."

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SPEECH

OF

MR. DAYTON, OF NEW JERSEY,

ON THE

TERRITORIAL QUESTION.

DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH 22, 1850.

WASHINGTON:
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1850.

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DELIVERED IN SENATE OF THE UNITED STATES, MARCH 22, 1850.

The Senate having under consideration the resolutions of Compromise submitted by Mr. BELL, together with the motion of Mr. FOOTE to refer them to a committee of thirteen—

Mr. DAYTON addressed the Senate, as follows:

Mr. PRESIDENT: The war with Mexico has brought with it much territory and much trouble. This result was early foreseen. It was not only foreseen, but it was strongly deprecated. We now have a national estate beyond our national wants or means of enjoyment, and yet not less the subject of contention among the heirs. Some gentlemen on this side of the chamber, in anticipation of the difficulties which now surround us, never assented to the treaty by which this territory was acquired; they preferred the hazard of a continuance of the war with Mexico, rather than a peace which should bring territory along with it. There were a few upon this side of the chamber, and I was of the number, who preferred, as an alternative, peace, upon the terms then offered, rather than a continuance of the war, with the chances of a larger amount of territory, further south, at its close. I do not now, Mr. President, regret my action upon that subject; it is easy to appreciate difficulties which are around us and upon us; but it is hard to say what these difficulties would have been, had that war been continued, by defeating the treaty, and, as a probable consequence, the Whig party been defeated at the ensuing election. I hesitate not to believe that the conclusion of that war, under the auspices of a Democratic Administration, would have brought with it an additional amount of territory, further south, and better appropriated to slave labor. It would have increased rather than diminished the difficulties which now surround us. But, Mr. President, the acquisition of this territory was emphatically the act, the *policy* of the South. This matter, either for good or for evil, has been forced upon the North, not only against our will, but against our remonstrance and fears, ofttimes expressed in this chamber. But the territory is here; and the next step in the progress of this matter is as to the disposition which is to be made of it. That the citizens of the two sections of the confederacy have equal rights there, no man can dispute. But that very equality of right repels the idea that the minority in interest shall have an absolute control. "Equality is

equity;" but a system which shall give to the few (having a lesser interest) the control of the many, is neither equality nor equity.

There is no controversy, then, in regard to the principle that our Southern friends have, with us, politically and personally, equal rights in the Territories; but they are no more than equal. It is the application of this principle of equality which makes the issue between them and us. The first difficulty grows out of California. That country has accomplished what, at the last session, I did not suppose could be accomplished within so brief a space. Her condition must have been misunderstood or misrepresented. There have been, it would seem, but few, comparatively, of her population engaged during the past season in the mines and washings. Others have met in convention, and formed a constitution, which her people have adopted. They have appointed Senators and elected Representatives in the usual forms; and they are now here asking admission for California as one of the States of the Union. The question then occurs, Why shall not the request be granted? California was not at the last session a *State*, and that, though not the whole, was a principal objection to her admission then. That she is now a State *de facto* no man can dispute. But, sir, they have incorporated, it seems, an anti-slavery clause in their State constitution. This, however, I understand distinctly from our friends of the South is, to their minds, no objection to the admission of California into the Union. I understand that they stand now, as they ever have, upon the principle of non-intervention; and the fact of the incorporation of this principle into the California constitution, forms of itself no objection in their minds to the admission of the State into the Union. That being so, it narrows very much the ground of opposition. We get rid in this way of those sources of excitement which have pervaded the country from North to South. The matter is thus brought to stand, not upon a question of right, or honor, or power, but as a mere question of political expediency.

Now, sir, what are the objections to the admission of California, looked at as a matter of form and with an eye to expediency? I know these objections have been gone over by others, and what little I have to say upon them will be said as briefly as the nature of the circumstances will admit.

It has been said that, by the admission of California under the circumstances, the Federal Government will acknowledge that the people of that country had a right to legislate for themselves—that it will in fact be an abandonment by this Government of the sovereign power of legislation over the Territories. Not at all, sir. The very fact that California comes here and asks admission, not *over* our legislation, but through and with the consent of our legislation, admit the fact that our power upon that subject is sovereign; and the very fact that we do admit her upon such application is not only a claim, but the full exercise upon our part of the power of legislation over the country. Why, sir, Congress itself never legislates for a Territory. It creates a Territorial Government, and it constitutes that government its agent. It enacts and we supervise. Now, suppose a state of things shall arise where there is no prior act granting territorial legislative power, and yet, for the purposes of self-protection, laws are passed by its local legislature, and subsequently recognised by

Congress: can any man doubt that these laws would be binding? Is not the act of Congress giving an assent subsequent as binding as if given prior? Does not the general rule apply as to the recognition of an agency either before or after an act done? Did we not in the acquisition of this very territory recognise this principle? The treaty by which it was acquired was not only negotiated by Mr. Trist without authority but against authority; and yet it was sent here and ratified by us. We acknowledged the act subsequent to the negotiation, and it is now the law of the land. Our action, in admitting California, is no abandonment of our right of legislation.

But then, again, it is said that California is not a *State*, and the Constitution authorizes the admission of States only. California, sir, is a State—a State *de facto*; it exercises the powers of an organized government. Whether it is or shall be a State *de jure* depends upon the action of this Government. She has within herself all the powers, all the rights, and is charged with all the obligations of a State—not of a State independent, but of a State dependant—of a State formed with a view to admission into this Union, and consequently curtailed somewhat by its own constitution of the powers of a sovereignty. She has adopted the only character of government which was in her power, upon principles of national law. She could not adopt a territorial form of government; that is the creature of federal legislation. She has within herself now all the elements, rights, and powers of a State. If her conduct has been revolutionary, as has been contended, it would be so against this Government only, and we surely can waive the wrong.

But, sir, this objection, if it existed at all, is an objection which is answered by the past action of the Government. Excluding the case of Texas, some sixteen States have been admitted since the formation of the Constitution, and eight of them have been admitted without any prior consent of Congress to the formation of the State Government. It is said, however, that they previously had Territorial Legislatures. But the powers of a Territorial Government are limited by the act which creates it. They can have no authority to change the fundamental character of the Territorial Government, and make it into a State. Outside of the powers delegated, they are as much without power as though no Territorial Government had ever existed. No amount of argument can make this plainer; nor can any metaphysical subtlety fairly distinguish between the case of States admitted (if without the prior consent of Congress) with or without a prior Territorial Government.

But, again, it has been said there has been no prior census. To this I reply, that five if not six States have been admitted without such prior census; that there is no provision of the Constitution, and no provision of public law, which makes it essential. The question addresses itself to the just discretion of Congress, whether, in point of fact, the population there is sufficient to entitle them to become a State. Now, sir, this population has increased beyond all my expectation, and I suppose beyond the expectations of almost all who hear me. The best information we have upon this subject makes the population about 120,000. The last number of the Alta California gives the number of arrivals in San Francisco in the space of a little more than nine months, prior to the 1st of February last, as 48,000. Un-

questionably large numbers entered the country from other points, and others, doubtless left it. But I think there can be no doubt that, in point of fact, the population of California is amply sufficient to entitle her to admission.

I regret one thing; and that is, that she has elected two members to the House of Representatives. I think it would have been better and wiser to have waited the result of the coming census. But for that alone I would not reject or delay her admission as a State of the Union. If the coming census do not entitle her to her present representation, she will lose it in the next Congress.

But again, sir, the boundaries of the State of California are made the subject of objection. These boundaries, though not embracing all of California, as did the bill of last session, are perhaps too large upon the coast to admit in the future of the convenient workings of the State government itself. Seven hundred miles is a long stretch to be covered by the interior municipal arrangements of a State. But if this State be admitted now, I see not how it is possible that she can be admitted with any other boundaries. The late influx of population is about the centre of the State, around and at San Francisco, and in the neighborhood of the mines. Now, sir, you could not with propriety have run a line around that population and cut out a piece of country in the centre, for a State, leaving a fragment of territory to the north and another to the south unprovided for. In the present situation of things, you are compelled, if you admit the State at all, to admit her with her present boundaries. They may not have been wisely made; it may in future so appear. If so, we must trust to the patriotism of posterity to do in the future what they have in like cases done in the past—rectify their mistake by the light of experience.

But, sir, there is another branch of this same objection; and that, I apprehend, arises from the fact that a part of these boundaries go south of 36 deg. 30 min.—that they cover land that would have been left to slavery in the event of the Missouri compromise line being extended to the Pacific. But the answer to this is, if answer were necessary, that the people have settled this question for themselves, north as well as south of that line; and under all the circumstances it is "hoping against hope" for the South to look in the future for the formation of a slave State upon the Pacific. Why, sir, when the citizens of the South go there, they do not seem to desire slavery themselves. They slough off their prepossessions at once. If the institution be a blessing at home, it is, at all events, a blessing that they are not disposed to carry along with them. They leave the South and this institution behind, and the very moment they get into the sunshine of freedom, they change their colors; they cast their coats. Why, sir, what have we seen in this very California convention? The South was represented there—nay, was not only represented, but in proportion to their numbers, more than represented in delegates to that convention. True to their past history, the South have already obtained in that territory nearly all its offices and its honors. Their citizens are there, looking, not for emolument only, but it would seem for power and place. Ours more generally are delving in the mines; they are scouring the *dirt*. The citizens of the South are not, it would seem, after the glittering dust only, but power and position.

Mr. Foote. The Senator, I presume, does not wish to do injustice to his own section; the representatives in the other House are, I believe, both from the North.

Mr. Dayton. I did not overlook that fact. I qualified my remark by saying that the citizens of the South had acquired *nearly* all the honors and offices of the Territory. If the representatives in the other House are from the North, those in this are both from the South; the one from Mississippi, and the other from South Carolina. And looking at home, at California herself, we find that the whole body of her State officers, with a single unimportant exception, are Southern men. Sir, I do not censure, but I rather commend the South for their spirit there. But when we see that they were fully represented in the California convention—that the leading and influential men there are men of the South, and yet we find them all, *una voce*, going against the introduction of slavery, I ask, is it not over-sanguine to expect slave territory in California south of 36 deg. 30 min.? Men do not emigrate from mere political motives, and with a view to political results. The leading inducement to emigration is always personal—generally pecuniary. Some few there are who may go with a view to honor and office, but the great body of emigrants have another creed. Theirs is what some one has cynically called the American creed: "they believe in the golden eagle; they believe in the silver dollar; they believe in the copper cent." The sarcasm is scarcely more bitter than true: it is at least the inducement which controls emigration here—that controls emigration everywhere. You will never get a slave population to emigrate to that territory with a view to constituting a political equilibrium. In the business of life, in the daily transactions of men, they are governed and controlled by other motives and other objects. Slave labor is southern capital, and southern capital, like capital of every other description, will pursue the general law of trade. It will go permanently nowhere, except where the investment will produce an adequate return.

California, south of 36 deg. 30 min., embraces the town of San Diego, the city of San Angelos, and other populous towns and villages along the coast. In point of fact, it was, I believe, the best populated part of the territory prior to the late rush of emigration. Can it be required that we shall keep out that portion of California from the benefit of State government, with the expectation, at some future day, of the miraculous advent of a controlling slave emigration? Sir, it cannot be; it is hopeless, and the demand unreasonable. I know that our Southern friends may look at this as another mode of changing the equilibrium. Sir, no such equilibrium was ever intended; and if it were intended, it has been destroyed, not by reason of, but in despite of the action of this Government. In showing up the means by which this supposed equilibrium has been destroyed, the Senator from South Carolina, (Mr. Calhoun,) has ciphered up with the rest the amount of unoccupied territory appropriated to the two sections since the adoption of the Constitution. He seems to have forgotten that it is not territory *unoccupied*, but occupied, (of which the South has two acres to our one,) that alone could effect such results. He seems to have overlooked another striking fact, when saying that this equilibrium has been destroyed by the action of this Government; a fact, indeed, in our political history, which has been wholly overlook-

ed through all this debate. The action of this Government hostile to the South, forsooth! Why, sir, do they remember that, since the adoption of the Constitution, Missouri, Arkansas, Texas, Louisiana, and Florida, have all been added to the slave territory of the Union, by the direct action of this Government, out of territory acquired since the adoption of the Constitution? Up to the 28th December, 1848, there had not been a solitary free State added, except out of land which we owned upon the treaty of peace in 1783, recognising our independence. By that treaty with Great Britain our boundary ran from the northwest point of the Lake of the Woods due west, to the Mississippi, thence down the Mississippi. That boundary was never disputed by France or any other power, and before the admission of Iowa there had not been a solitary free State formed, except out of territory on this side of the Mississippi. Now I appeal to the Senate and to the country how, in the face of palpable facts like these, can it be contended that the equilibrium has been changed by the action of the Government? If it has been changed, it has been done by causes over which the Government had no control, and in despite of its constant action to the contrary.

Again, it is said that it is not just or fair that the adventurers who first rushed into this territory should settle its organic laws, and thus presume to exclude the institutions of the South. And yet, Mr. President, this is but the history of all territorial governments. The first who go there, as soon as there is a sufficient number, settle the organic law of the Territory; some in longer, some in shorter time. Alabama settled her organic law by forming a constitution a little over two years after she became a Territory. Circumstances will force the settlement of one territory more rapidly than another; but as soon as their population is sufficient, and they have complied with other essential preliminaries, equal justice requires that we apply one rule to all.

I admit, sir, if the influx of population were made in fraud of the rights of the South, and merely with a view to exclude their institution, it would present a question for the exercise of a just discretion by Congress. But in this case nothing like this is pretended; the settlement has been in good faith, with a view to business interests, and not to the political control of the country. But there is another reason why we should look favorably upon this application: the Government has itself encouraged and fostered this rapid growth and sudden development of California. Witness its great mail system, its line of steamers, the routes secured across the Isthmus, the ports opened, and revenue collected upon the other side of the continent. The Government, in connexion with individual enterprise, has given such an importance to these Territories, that an arrival of a steamer from Chagres is looked for with an anxiety equal to that of an arrival from the marts of the old world; ay, sir, and in the agricultural sections of our country with greater anxiety and greater interest. These are quick, unexpected, and unparallelled results. I had supposed that this influx of population upon that coast would before now have ceased, and as suddenly as it began, but I was mistaken. The precious metals still hold out, and the tide of emigration sets steadily, through as not as strongly, as ever, to the Pacific coast. There is one thing before us that indicates with some accuracy the present condi-

tion of that country. The constitution she has sent here shows the pay and salaries fixed for the officers of her government—sums better fitted for the meridian of California than of Washington, and least of all fitted for the people of a territorial government. Ten thousand dollars a year for their governor, and sixteen dollars a day to their members of the legislature, with other salaries and incidentals in proportion, show that California either never was in, or that she has passed the *grub-worm* condition ; she spreads her wings, literally her *golden wings*, fresh, full-grown, before us ! You can no more remand her to the state of a Territory than you can force back a development of nature into its condition of yesterday. Nor is it desirable that you should. As a Territory, she is a charge upon your coffers, (and it would seem no mean one,) while as a State she is a charge upon her own.

But, sir, there is yet another objection, and perhaps the most serious of all, to the admission of California; one about which, though least is said, perhaps most is thought. There is no slave State ready to come in, as a balance against this free one. Now, sir, I think this is the first time that it has been assumed *openly*, as a principle of action, that no free State should come in unless there was a slave State to come in with it. I admit, sir, it has long been acted upon—adroitly acted upon—by Southern statesmen. They have manifested upon such occasions a degree of politcal strategy which, considering that the interests of the South must, through so many years, have been in the hands of different statesmen, indicates great ability and great power. Why, sir, the two last slave States which were admitted, Arkansas and Florida, have each now one representative upon the floor of the other House only, and the population only which entitles them to it; while of the two last free States, Iowa and Wisconsin, both admitted subsequent to those last named, the one has two, and the other, Wisconsin, the last admitted, has three representatives on that floor, and of course a commensurate population. But, sir, let me now call the attention of the Senate and of the country to this matter of admission of new States, and to dates; and I think that a little reference to this subject will serve as a useful lesson to Northern politicians. It will show how they (though having the numerical force themselves) have constantly permitted the South to anticipate them in the admission of States into the Union:

Slave States.				*Free States.*		
Louisiana was	admitted in	1812	and	Indiana was admitted in		1816
Mississippi	"	1817	and	Illinois	"	1818
Alabama	"	1819	and	Maine	"	1820
Missouri	"	1821	and	Nothing to balance it.		
Arkansas	"	1836	and	Michigan was admitted in		1837
Florida	"	1845	and	Iowa	"	1846

Now, sir, here is a course of things, running through forty years, showing that, ever and always, without reference to population, our Southern friends have managed to anticipate us a year or two in the admission of States. But, sir, after Florida was admitted, the South had used up its *material;* they had got at last to the end of their tether ; here was a difficulty. Wisconsin was looming up in the distance, just upon the horizon, and there was not only no slave State ready, but there was no territory to make one of; not a foot remained south of 36° 30′ unoccupied. The territory west of Arkansas had

been permanently appropriated, by act of Congress, to Southern Indians, removed there. Here, then, was a dilemma; but even here the South was equal to the emergency. Just at this point of time there was, we are told by the Senator from South Carolina, a World's Convention in London for the general abolition of slavery; and simply for the purpose of preventing that World's Convention from carrying its resolves into effect, a Southern Executive actually secured Texas, and *admitted* Texas, before Wisconsin was ready. Now, I say, *that*, again, as matter of strategy, if it were so, was well done.

But, sir, now comes another difficulty. Out of this annexation of Texas came the war with Mexico; and out of that again, by force of Southern policy, comes this acquisition of California. But in getting this the South "have got more than they bargained for." Circumstances wholly accidental, and which no human foresight could anticipate, have thrown a vast free population suddenly into that Territory; they have put their veto upon the slave principle; organized a government, and they are now here respectfully asking admission at our hands, and there is no slave State ready to meet them. Well, here in truth is a dilemma. The South have the territory in Texas, but they have no men. What is to be done? The case is desperate; but if it be so, so is the remedy. *Compromise*, say they, or we will *secede*. Now, what in Heaven's name are we to compromise? Here is a state of things brought about by your own policy, against which we have protested from the beginning; it has taken a turn against you which human foresight could not anticipate, and now you say compromise or we will secede. Sir, but for its importance, the claim, under all the circumstances, is almost laughable. The North has been led along as by a string, blindfold, for forty years, and now it has got in California a little the start, not by its wit or its wisdom, but by pure accident, and the South says *compromise* or we *secede!* Sir, if our friends of the South seriously mean to say that, upon the admission of California they will hold it as ground of secession, in God's name let the trial come; let the issue be made. Never, never can it come upon a point weaker for the South, or stronger for the North, than that. If the power of this Government is to be tested, let it be tested just in such a cause, and just under such circumstances. But, sir, this is a useless anticipation; such a crisis can never originate in such a cause; the just feeling of the South will revolt against it. I hold, therefore, that the South makes no concession to the North in the admission of California, and we are bound to make no equivalent to them.

But, sir, in this connexion, and I suppose as connected with equivalents, a slave State has been spoken of in Texas. The great difficulty is, that they have got no men there to make a State of. They want however, a legislative declaration of willingness upon our part to make a State when the men go there. Now, Mr. President, I do not know that that will be of any service. There has been a legislative declaration of willingness made, as stated by the Senator from Massachusetts, (Mr. Webster,) and I confess I am not fond of putting my willingness upon this subject upon paper. In point of fact I am not willing, but still I suppose it must be done when the time comes. Whatever other gentlemen may say upon the subject, I cannot but think the government is bound to do so upon the fair construction of the con-

tract of annexation. But, as before stated, I am opposed to all unnecessary expressions of willingness in advance. I will abide by the contract, but I did not make it, and will not *willingly* do it. I will do it if the time shall ever come, (which I hope may be far distant,) because, acting as a fair man, I cannot help it. I think, as a legal proposition, that matter is rather too plain to be controverted.

The clause in the resolution for the annexing of Texas is this: "New States, of *convenient size*, not exceeding four in number, in addition to said State of Texas, and having *sufficient population*, may hereafter, by the consent of said State, be formed out of the territory thereof, which *shall be entitled* to admission under the provisions of the Federal Constitution;" and those States formed south of 36 deg. 30 min. "*shall be admitted* into the Union with or without slavery, as the people of each State asking admission may desire." Mr. President, neither I nor my friends voted for that resolution. Texas was annexed in pursuance of it, in despite of our remonstrance and opposition. But the act being done, the obligation of good faith is imperative upon the Government. There is no escape from it. Two answers are given to this. The Senator from New York (Mr. SEWARD) says it is true these States south of 36 deg. 30 min. may come in as *slave* States, if they desire it; but Congress may refuse to admit them as States at all, and, as I understand, for the reason that they are slave States. This seems to me a clear evasion of the contract. The resolution says "they shall be *entitled* to admission;" it says "they shall be admitted," with or without slavery, as *they*, not we, desire. I would not hurry or anticipate the time of their admission, but, on the contrary, shall be very careful to exact a full compliance with all precedent conditions; but when a state of a "convenient size," having a "sufficient population," shall apply, with the "consent of Texas," and in conformity with other provisions of the Constitution, the letter and spirit of the resolution should be fairly complied with. That Congress may exercise, and is bound to exercise, a just discretion as to whether the preliminaries have occurred, no man can doubt; but the fact that they have chosen slave and not free institutions is *expressly excluded* from its consideration by the contract of annexation. To make the slave institution *a bar* to admission is to nullify that part of the resolution which says they "*shall* be admitted" with or without slavery, as *they* may desire. Sir, I struggled against this resolution or contract then. I regret it now. But its terms are plain; the consideration of the question of slavery was expressly reserved to the newly-formed States by the act of admission, and the obligation of good faith faith demands that the Government abide the contract. But a second answer has been given by the Senator from New Hampshire, (Mr. HALE.) He says the resolution admitting Texas was unconstitutional, and consequently not binding; but without discussing that point—for it is too late to do so—we are precluded by the fact that Texas has been admitted; the contract has been thus far executed. The Government has taken the country under that contract. We cannot claim its benefit in that which makes for us, and disclaim its obligation in that which makes against us. This is not only a principle of good faith, but a rule of law recognised in every court, whether of equity or law, in christendom. No, sir; no, sir; let us stand by our contract, without subterfuge or evasion, and that whether they be for us or against us.

Mr. SEWARD. I think my position was not stated correctly; but, if it is the pleasure of the Senator, I will wait until he gets through.

Mr. DAYTON. By no means. I will hear the Senator now.

Mr. SEWARD. I intended to state, and I think I did state, that the resolution for creating new States at all in Texas, is one which requires consent to be given hereafter; not only the consent of Texas, but of Congress; and that, therefore, if the question was to-day before me, I should vote, under present circumstances and with my present opinions, against creating any new States in Texas, and that the result of it would be that no new State could be admitted as a State.

Mr. DAYTON. If the Senator means to say that he would vote now, under existing circumstances, against the admission of a slave State in Texas, I agree with him.

Mr. SEWARD. Now and hereafter. If he will refer to the words, he will see that new States *may be* admitted, with the consent of Texas to be hereafter given, and with the consent of Congress to be hereafter given; that the Congress of the United States is not committed in that resolution to the creation of States hereafter.

Mr. DAYTON resumed. That is not the language of the resolution. If that were the language of the resolution, there might be something in the gentleman's argument. But the language of the resolution is this:

"New States, of convenient size, may hereafter, by the consent of said State, be formed, &c., which *shall be entitled* to admission under the provisions of the Federal Constitution."

I repeat, that I would not hurry their admission; I would not anticipate the necessary preliminaries; I would take full time to see that they are of convenient size; to see that they have a sufficient population; to see that they come in with the consent of Texas; to see that they have complied with the whole spirit and letter of that resolution; but when that is done, I see not how the Government is fairly to escape from the contract.

I thus pass from the subject of California and its proposed equivalents, and say I am in favor of her admission without restriction, without limitation, and without equivalent.

Well, sir, there is another question——

Mr. SEWARD, (interposing.) Will the Senator from New Jersey allow me to ask him whether the resolution for the annexation of Texas, as he has quoted it, was found in the book called "The Constitution?"

Mr. DAYTON. I believe I copied it from that.

Mr. SEWARD. Will the Senator excuse me if I read from that volume, the one to which I had access before, and which I presume is right, for the purpose of avoiding misapprehension? It is as follows: [Mr. S. here read the resolution as before recited, and commented upon the language, "new States may hereafter be formed," as giving to Congress an option.]

Mr. DAYTON resumed. The Senator misunderstands, I think, the application of that language; if critically examined, it will be seen that the word *may* applies to the option on the part of Texas; or, if applied to this Government as well as that, it is controlled by the language of the next sentence. The word *shall* applies to the obligation which rests upon this Government. [Two or three Senators near: "That's it, clearly."] I do not think there can be any great

difference of opinion with regard to the fair construction of that resolution. But I pass from that branch of the subject, trusting that we may not be called upon to act upon it for years to come.

There is another topic of a practical character to which I beg to call the attention of the Senate; and that is, *the fugitive slave bill.* This subject has been much spoken of, in the general, in the Senate, but it has been very little spoken of in its details. The Constitution provides that fugitives from service "shall be delivered up on claim of the party to whom such service or labor may be due." I trust that I may be pardoned a few preliminary remarks in calling the attention of the Senate to the mode in which that provision came into the Constitution, with a view to what I consider the truth of history, and to rectify a mistake recently made upon the subject by the Senator from South Carolina, (Mr. CALHOUN.) That Senator said that he understood that the ordinance of 1787 had been opposed in the Congress of the Confederation from 1784 to 1787, and had been kept out; but that finally, in 1787, the Congress of the Confederation and the Convention which formed the Constitution, (sitting at the same time, the one in New York and the other in Philadelphia,) acting upon a mutual understanding, the one passed the anti-slavery clause of the ordinance, and the other put this clause into the Constitution providing for the delivery of fugitive slaves; leaving us to understand that the one was in consideration of the other, and that we had now faithlessly refused to carry out that understanding.

In the course of a few years, this statement, unless contradicted here and now, will become history; "*vires acquirit eundo.*" I beg to ask upon what it rests? The ordinance, as drawn by Mr. Jefferson, was not defeated, but passed in 1784, without the anti-slavery clause. (It was a meagre skeleton, wanting in all those noble properties which have since given it so just a celebrity.) It provided, as drawn by Mr. Jefferson, for ten States instead of five, which, if continued, would have made a great difference in the relative strength of the two sections of the Confederacy. As it was, it continued the law from 1784 to 1787. The subject matter of the Northwestern Territory and this ordinance were then referred to a committee of the House, of which Mr. Carrington, of Virginia, was chairman. On the 9th of July, 1787, this reference was made; and on the 11th, Mr. Carrington, as chairman of that committee, reported the ordinance as it now is, without the anti-slavery proviso. On the 12th, Mr. Dane, a member of that committee, moved the insertion of this proviso as an amendment; and it was inserted unanimously. On the 13th, the bill passed and became a law, having gone through all the forms of legislation in five days. Now it is supposed that this bill, with its anti-slavery clause, was connected with the clause in the Constitution for the surrender of fugitive slaves, and that they were passed together and upon mutual understanding of the two bodies. By reference to the proceedings of the convention which formed the Constitution, it will appear that that convention never approached the subject of fugitive slaves until the 28th of August, nearly seven weeks after the time that the Congress of the Confederation had passed the ordinance with the anti-slavery proviso in it! This would at once and of itself end the hypothesis, but there is no trace of any such understanding in the debates in the convention; nor is there a trace of such an understand-

ing, so far as I have seen, in the debates of the several State conventions, when they came to consider the adoption of this Constitution. I have looked particularly into the debates in Virginia, North Carolina, and South Carolina, and I find nothing of the kind. The only reference from which the consideration given the North for this consent to surrender fugitive slaves may be implied, I find in the remarks of Gen. Pinckney, in the convention of South Carolina. He, in speaking of the abandonment of the right of importing slaves after twenty years, said, in that connexion, that the South had secured a provision for the surrender of fugitive slaves, which they would not have been entitled to, and had made the best bargain they could. If there was any question (which is very uncertain) which had a bearing upon this fugitive slave clause, it was that provision for giving up the right of importation of African slaves after twenty years. I may add here, that the adoption of that Constitution in the convention of South Carolina was violently opposed; but when the decisive vote came, there was a long burst of applause and approbation from the surrounding spectators; confusion followed; the minority protested against it as insulting to them, and the House was cleared. Long, long may it be, before other and different feelings shall reign in the hearts of that people!

I was speaking of the mode in which this fugitive slave clause came into the Constitution, and deny that there is any evidence that it came there as a consideration for the anti-slavery clause in the ordinance of 1787. That clause as to fugitive slaves being there, as soon thereafter as might be, the act of 1793 was passed for the purpose of carrying the provision into effect. Upon that act of 1793, and the powers originating under it, there has been a decision of the Supreme Court of the United States; and before I come to consider in detail this fugitive slave bill, it is necessary that we see what the Supreme Court has decided. I hold the case of Prigg *vs.* the Commonwealth of Pennsylvania, 16th of Peters, page 540, in my hand. I do not mean to read the case, but I wish to read some of the points which the case decided.

It lays down these principles, among others, that

"The clause in the Constitution of the United States relating to fugitives from labor manifestly contemplates the existence of a positive, unqualified right, on the part of the owner of the slave, which no State law or regulation can, in any way, qualify, regulate, control, or restrain."

Again: That

"The owner of a fugitive slave has the same right to seize and take him in a State to which he has escaped, or fled, that he had in the State from which he escaped; and it is well known that this right to seizure, or recapture, is universally acknowledged in all the slaveholding States. The court have not the slightest hesitation in holding that, under and in virtue of the Constitution, the owner of the slave is clothed with the authority, in every State of the Union, to seize and recapture his slave, whenever he can do it without any breach of the peace or illegal violence. In this sense, and to this extent, this clause in the Constitution may properly be said to execute itself, and to require no aid from legislation, State or national."

Again: That

"The clause relating to fugitive slaves is found in the national constitution, and not in that of any State. It might well be deemed an unconstitutional exercise of the power of interpretation to insist that the States are bound to provide means to carry into effect the duties of the national government, no where delegated or intrusted to them by the Constitution. On the contrary, the natural, if not the necessary conclusion is, that the national government, in the absence of all positive provisions to the contrary, is bound, through its own proper departments, legislative, executive, or judiciary, as the case may require, to carry into effect all the rights and duties imposed on it by the Constitution."

Again: That

"It would seem, upon just principles of construction, that the legislation of Congress, if constitutional, must supersede all State legislation upon the same subject, and by necessary implication, prohibit it."

Again: That

"The act of 12th February, 1793, relative to fugitive slaves, is clearly constitutional in all its leading provisions; and, indeed, with the exception of that part which confers authority on State magistrates, is free from reasonable doubt or difficulty. As to the authority so conferred on State magistrates, while a difference of opinion exists, and may exist on this point, in different States, whether State magistrates are bound to act under it, none is entertained by the court that State magistrates may, if they choose, exercise the authority, unless prohibited by State legislation."

Mr. President, there seems to have been a general expression of opinion in the Senate against the validity or correctness of this decision, so far as it pronounces State laws unconstitutional. Sir, I was happy to hear the honorable Senator from North Carolina, (Mr. BADGER,) whose judgment as a lawyer we all respect, say that in his opinion the decision was right. That is my opinion. Now, sir, having ascertained what the Supreme Court of the United States has decided upon this subject, and that it is the duty of Congress to carry this provision of the Constitution into effect, I am willing to do so.

Here permit me to say, without the slightest disrespect or unkindness towards the Senator from New York, who had expressed himself upon this subject, (Mr. SEWARD,) that I have no sympathy in some of the sentiments thus expressed. Every man, it is true, is the judge of what is due to himself. I only judge of what I feel is due to myself. Having entered this chamber, and bound myself by a cable stronger than iron to the Constitution, I hold that it is too late to go behind it when its text is clear. As soon, sir, as we begin to speculate, not upon what the Constitution is, but upon what it ought to be—to try it by the laws of God, and the powers of conscience, as *we* understand them—I fear that our anchorage is gone, that we are adrift in the night. I am willing to carry out this provision without paltering with my duty. But I may look upon this question differently from the honorable Senator from North Carolina and others who have addressed us upon this subject. I am prepared to vote for a law for the recapture and redelivery of fugitives slaves; but you must present a law that is reasonable—not one anomalous in its proxisions or reasonable in its character.

It is my purpose to examine a little in detail the law which is now before the Senate, and the proposition which is intended to be introduced by the Senator from Virginia (Mr. MASON) as an amendment. In my judgment, it would have been better, in the present excited state of the public mind, simply to have amended the act of 1893, by a supplement providing merely that certain named persons be substituted in the place of the State officers, (of whose services you have been deprived by the decision of the Supreme Court,) and that they be vested with powers to carry that act into effect. But another course has been taken. The committee have thought proper to report an entire bill, and I propose to examine that bill; I think we shall find it the most anomalous and extraordinary bill ever brought before us for legislative action.

The bill reported by the Judiciary Committee, in its first section, gives power to all commissioners of the Supreme Court, clerks, marshals, postmasters, and collectors of the customs, to carry into effect

the duties and powers of that act. Now, sir, if you recollect who and what the individuals here named are, scattered all over the country, does it not strike you as most anomalous and extraordinary that they should be vested with the power of pronouncing, in effect, upon the slavery or freedom of a human being? Is there a State in this Union, is there a Southern State that has or would vest a power of this kind in such a tribunal—a power without appeal and without revision? I think not one. And if you you pass such a law, I take it upon myself to say that you will generate a species of kidnapping, of fraud and outrage, which has been unknown even in the past history of this subject. I admit that the amendment offered by the Senator from Virginia is better than the provisions of the law as it now stands. That amendment provides, however, for the appointment of commissioners by the federal courts of the United States; and I observe that by that amendment my little State would get between sixty and seventy commissioners, three to each county, for carrying this law into effect. Here, again, in the amendment, as well as in the original bill, it seems to me there is a mistaken principle of action, of which I will speak further hereafter.

The second section of that law authorizes the individuals to whom judicial power is given to issue process upon application of the claimant, before the arrest of the fugitive is made. That is right—unquestionably right. The only difficulty is, that, instead of being optional, if we have the power, it ought to be peremptory; because most of these difficulties arise from the fact that claimants act without process. A black male or female lives in a free community, and has, perhaps, for years; they are recognised as free by our laws, and have children born there, (as was the case of the female carried off by Prigg from Pennsylvania.) Upon some calm day a stranger, unknown to the community, presents himself there, and, without process or evidence, simply says, that man, or that woman, is my slave! The black denies it: and yet he lays violent hands upon that slave, and carries him or her off by force. That community know nothing of the man who presents himself, nor of his right. They only know that the black has been there, perhaps for years, and supposed to be free. Can it be matter of surprise that, under such circumstances, there should be mobs, and riots, and outrages? The case is calculated to create excitement, and the feelings of all free communities revolt against it. It is therefore I say that if we have the power, it is best for the master as well as the slave, that we make the prior issue of process imperative, and not optional.

The third section authorizes the marshal and his deputies, of the federal courts of the United States, where force or violence is anticipated, to retain the fugitive in their own custody, and that they deliver him over to the claimant in the State where the claimant lives. Here is a new reading of the duties of United States marshals! A man who is marshal in Michigan, under this provision, is compelled to deliver, and is of course held responsible under this law for the safe delivery of a fugitive in Texas. These marshals are appointed under the judiciary act of 1789; let me read a few lines from the 27th section:

"A marshal shall be appointed in and for each district, &c., whose duty it shall be, &c., to execute *throughout the district* all lawful precepts directed to him and issued under the

authority of the United States, and he shall have power to command all necessary assistance in the execution of his duty."

He is then required to take the official oath and to give bonds as marshal of that district. He is appointed only to execute writs and other precepts or orders within the district. Now, sir, I put it to professional gentlemen on this floor, can you surcharge him with these additional duties, extra-territorial in their character? And, if you do so surcharge him, are his securities responsible for their due performance?

But, sir, again: It is said that this demand for the delivery of a fugitive is a demand upon the jurisdiction of the State. I grant it. The act of delivery is, in contemplation of law, the act of the State. Now, recollect that all your authority to deal with this subject is an authority which comes from the Constitution, and you cannot legislate an inch beyond the powers there given. When the Constitution says the fugitive shall be delivered up on claim made, where does it mean he shall be delivered up? In this law you require that it shall be done in the State from which he fled. That is not the constitutional provision.

The power under the Constitution is to deliver up, but to deliver up *on claim made*, and of course where the claim is made. Why, sir, take the preceding section of the same article, which requires the delivering up of fugitives from a criminal charge, the language of which is identical in this particular. Where is that delivery to take place? Can you, under the Constitution, require the delivery of the alleged criminal in the jurisdiction from which he fled? No man can pretend it. That delivery under the Constitution can only be made *then* and *there*, and if you attempt to legislate beyond that, you are legislating outside of the powers conferred by the Constitution. I hold, therefore, that we are without power to pass this part of the 3d section of the act.

But there is another provision in the section; and that is, that the marshals shall have the power in certain cases to call assistance for purposes therein specified. Sir, this is simply unnecessary; by the judiciary act of 1789 any marshal has already the power to call all such assistance as he may require for the execution of his duties. This 3d section of the bill is then in its parts unconstitutional and unnecessary.

The 4th section is obnoxious to the same criticism applied to the preceding, only with increased power and force. It provides that in the event that there shall be no marshal or deputy within ten miles, the person issuing the warrant shall appoint some fit person to execute it, and deliver up the fugitive, with all the powers to call assistants, &c., named in the preceding section. Of course this subjects the section to the remarks which I have applied to the preceding one. It moreover develops, in its fullest extent, the incongruous character of this law. Here you are appointing postmasters, collectors of customs, and others, who have never, perhaps, seen the inside of a law-book in their lives, to exercise high judicial powers; you then propose to authorize them to name anybody else to act as executive officers, and these again to call to their assistance any other persons to aid them to carry their extraordinary powers into execution! And then, in the event of difficulty and force being opposed, the United States are to pay all the expenses and costs.

The fifth section is a mere increase of penalties upon those who obstruct the claimant. I care little for this, though in point of fact the penalties are severe enough now, if enforced: you only increase the difficulties of a recovery by enlarging them. I now submit to honorable Senators, do you believe that this law, or any law like it, can be carried into effect through the agency of such a tribunal? You will increase, rather than diminish, your difficulties. Upon each arrest and trial there will be but a repetition of scenes of confusion, exasperation, and excitement. You are taking the wrong course. You are endeavoring to augment your chances of recovery by increasing the number of your agents; *the error is radical.* You should, instead of this, elevate the character and standing of persons to be selected as agents. That is the only mode in which we can ever expect to succeed in enforcing the provisions of the Constitution. You must lodge this power in the hands of those whose position and character will make that power respected. You catch and reclaim your fugitive criminals without difficulty, with the aid of *one* Governor; and when you get a Governor's order for the delivery of a criminal, no one thinks of interfering with the authority of that distinguished official. If you will confide this affair of fugitive slaves to the district and circuit judges of the United States courts, or even if you should extend it to those commissioners of the United States courts who may be appointed with their consent from the judges of the Supreme courts of the several States, you will be able, I have no doubt, to secure the execution of your law. Such persons will give weight of character and respectability to the offices which they are called upon to perform; but if you put this power in the hands of a great number of petty commissioners, you will inevitably surround its execution with new and augmented difficulties. You do not need an agent stationed at every cross-road through the free States, for the purpose of catching your fugitive slaves. Southern men do not go into the free States to hunt a slave as they would start a partridge, which must be taken on the wing or it is gone; they first ascertain where he is, or obtain some knowledge of his whereabouts, locate him, and then go for the purpose of arresting him. There is, therefore, no difficulty in their arming themselves with the proper process beforehand, whether there be five or fifty persons charged in the State with the execution of the law for delivery of fugitives. You are proceeding upon a false principle. You are legislating with a view to finding facilities to *run* your slaves out of the free States, as though they were *contraband* goods, to be run across the border in the face of a revenue officer. It is a false principle of legislation, and proceeds upon an entire mistake as to the feelings of our people.

But, again, sir, much has been said as to the propriety of affording the fugitive slave a trial by jury; the most strenous objections are made to the proposition. And the honorable Senator from North Carolina, (Mr. Badger,) who expressed himself with so much clearness and legal acumen, took occasion to say that the granting of such a trial would render the whole remedy of the slaveholder illusory; and I recollect that the honorable Senator from Maryland (Mr. Pratt) said the other day that it was equivalent to the denial of all remedy to the master for the recovery of his slave. I was surprised, sir, to hear these expressions. I speak from some knowledge of the subject,

when I declare that a jury is, in my judgment, a thousand times better tribunal than that of any of the petty officials your bill proposes to create; not better for the slave only, but fairer for the claimant. I do not mean to say that after a jury has rendered its verdict, and an order for delivery and removal is made, that an appeal or certiorari or writ of error is to be provided for, and thus a ruinous procrastinated litigation to be entailed upon the claimant. Not at all. I mean that the verdict of the jury shall be final and conclusive as respects the question then and there submitted, and that the order for delivery be based thereon. That is now the law of New Jersey, first enacted in 1836, and again re-enacted in 1846. A jury can be summoned in an hour; there is no harrassing and annoying delay, nor any but the most trifling expense about it. It is simply the substitution of another tribunal in the place of the judge or commissioner who has been proposed to try the questions of fact. Nor do you have to prove anything more before a jury than you would before a judge or commissioner. You have to prove exactly the same thing—nothing more or less.

But my learned friends from Kentucky, Virginia, and North Carolina say that this is a change of *venue*, and implies an insulting distrust of *their* courts. With all respect, sir, I assert that it is nothing of the kind. It is a change of nothing but the character of the tribunal that is to try the question of fact. The finding of the tribunal, and the finding of the judge or the commissioner, has the same effect, and none other. They investigate the same matters—decide upon the same evidence, and you have to prove no more before the one than before the other. How, then, can it be said that it is a change of venue? The finding of a jury and the judge's order thereon for delivery has no effect upon the question of the abstract right of property; but it is effective *then* and *there*, and for the purpose only contemplated by the Constitution, to wit: the delivery up of the slave, or a denial of it. But suppose, after a finding in the fugitive's favor, he return to the State from which he fled, could he plead the verdict or denial of the order of delivery in bar of the claim of the master to his service? or, if the verdict were in favor of the claimant, could that, in a Southern State to which he might return with his slave, vest a title if he had none before? Would it *bar* the negro's claim in your courts to his freedom? Surely not. It is conclusive only for the purpose which is *then* and *there* under consideration. A verdict is not on general principles pleadable in bar; it is the judgment alone which has that effect; and, in this case, that consists of nothing but *an order for delivery*. A jury, under these circumstances, is any thing but injurious to the interests of the claimant, or insulting, as supposed, to the rights of the South.

But, sir, the whole argument against the allowance of a jury is based upon a supposed analogy between the two provisions in the Constitution relating to fugitives—the one to fugitives from justice, the other to fugitives from labor. My learned friend from North Carolina (Mr. Badger) said yesterday, or the day before, that the cases were identical. How strange that, on a question of legal construction, we should so widely differ! To my mind the line of distinction between the two is as broad and clearly marked as a turnpike. Let us look and see whether the argument based upon this position is well founded. Here is one section:

"No person *held to service* or labor in one State, &c., *escaping* into another, &c., shall be discharged from such service or labor, but shall be delivered up on claim of the party to whom *such service or labor may be due.*"

Now, upon this claim of fugitive slaves, what is to be proved? You are, in the first place, to prove that the person was held to service; in the second place, that he has escaped from such service; and in the third place, that the service is due to the person making the claim. That is not only plain on the face of the Constitution, but if you look at the decision of the Supreme Court before referred to, it recognises a full and fair hearing of this entire question upon the merits, and says, in substance, that the question of *title* may be gone into. Well, sir, upon the provision under which the claimant claims the slave, cannot the slave offer evidence that he is no slave, that he is no fugitive? cannot he bring testimony that the claimant is not and was not his master? And yet if this tribunal were the mere "*committing*" tribunal—as is so earnestly contended by these Senators—a tribunal to deliver up the slave, that he may be tried elsewhere—a tribunal sitting to take preliminary evidence to ascertain whether there was a *prima facie* case sufficient to justify an arrest and commitment for trial—would the fugitive have a right to such evidence in chief? Does a criminal ever exercise such right? No, sir, nothing of the kind. The Constitution contemplates a full and impartial hearing, without a view to the decision of the question there submitted, and the slave is not to be given up until those things are satisfactorily proved. Now, let us look at the provision which provides for the delivery up of criminals, fugitive from justice; which they say is in language identical, and that the practice under the former should assimilate with that under the latter. Here it is:

"A person *charged* in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having *jurisdiction* of the crime."

Sir, is there no distinction between the two sections? In the one case, the Constitution makes the plain question, Is he a slave, a fugitive, and the claimant his owner? In the other, the question made is, Has the person been *charged* with crime, and has he fled? If so, he is not to be tried where found, but in *the jurisdiction* where alone he could be tried; and that is where the crime was committed. By the act of 1793, if you produce an affidavit or copy of an indictment, duly authenticated, *charging* him with crime, he is to be delivered up. But the Senator from North Carolina, in reading this provision, comments upon the passage "charged with treason, felony, or other crime, who shall flee from justice" to another State. Fleeing from justice, says the Senator, would imply that the man must be guilty; and yet he is not permitted to show it. But, sir, this is no fair construction of the clause. The meaning of it is indicated by the previous part of the section, "any person who shall be *charged* and shall flee;" that is all. "Shall flee from justice" is equivalent only to shall flee from the charge or the trial; then he shall be delivered up. And that is the obvious construction put upon it by the act of 1793. But, says the Senator from North Carolina, (Mr. Badger,) and the Senator from Kentucky, (Mr. Underwood,) there are extradition treaties, which equally compel us to render up criminals who are charged with certain crimes merely upon *prima facie* evidence. And can we refuse

to do to a sister State what we have agreed to do to foreign governments? Sir, these treaties are mutual agreements, on consideration, and in the express language of the Constitution, agreeing to surrender up criminals (not slaves) when they are *charged*, provided the evidence be sufficient, according to our laws, to justify the commitment of the men so charged for trial. These treaties obviously contemplate no trial and no hearing as to the fact of guilt; none such being possible in another jurisdiction. Can it be said, under such circumstances, that there is any analogy between these two provisions of the Constitution? And, if there be none, the whole argument and complaint as to change of *venue* in case of fugitive slaves, and the necessity of a *prima facie* case only, fall to the ground, because that argument is based altogether upon this assumption of analogy.

Mr. UNDERWOOD. With the permission of the Senator from New Jersey, I will put a case and ask a question. If I understood him aright, he says that one of the inquiries under the Constitution to be gone into before a jury, or the investigating tribunal by which the fugitive shall be arrested, is the question of slavery, and it must be established before that tribunal, be it of what character it may, that the man arrested is a slave. To that extent the Constitution gives the Congress of the United States the right to legislate and to institute a proceeding to make the inquiry. Now, my question, under that view of the subject, is, if that tribunal be so constituted by the legislation of Congress, and that tribunal decides the man is or is not a slave, is not that decision binding?

Mr. DAYTON. I had answered the gentleman's inquiry before it was put. I said it was unquestionably binding for the purpose of *that* trial; unquestionably binding so far as respects the judge's order, which is to be given there; but if the man remove to the State from which he fled, it does not affect the abstract right of property. That may again be presented there, the same as if this question, under the constitutional provision, had never been tried.

Mr. UNDERWOOD. I think not.

Mr. DAYTON. How so? The trial was for a single object only. How could it be pleaded? What is the record, and what is the judgment. Is it, can it be pretended that the tribunal is not to hear and fairly examine the question, whether the negro be a fugitive from the service of the claimant? Must he order him delivered up without such examination? May not the negro be heard, and heard by evidence? And, if so, can you limit his right? Can you say by *how much evidence* he shall be heard? Sir, gentlemen push their claim of right to an extreme when then they deny a full and fair hearing. But it is said that the right of trial by *jury* is illusory, and will afford no remedy to claimants. This is a mistake, and the extreme opposition to a jury trial originates in a want of knowledge of the feelings and habits of our people. I have before said it was a much better tribunal in reference to this question than one composed of a judge of commissioner, and I desire upon this point to make a few additional remarks.

You call a jury of twelve men together, and put them upon oath *then* and *there* in reference to the *precise subject* before them. That oath has an immediate and binding influence on their minds far beyond that of the more general oath of a commissioner for the per-

formance of official duty, entered into, perhaps, years before he is called upon to act. It has a *present* binding operation. Select this jury from any community, and you will not find twelve men who are fanatics on this question. Where can you select in this country, in the ordinary way, a jury unanimously disposed, without regard to their oaths, to overide the plain law and the Constitution? You select twelve men, (freeholders in most of the States,) and they uniformly give impartial verdicts, even on this question of fugitive slaves. They act with more independence because they support each other against the excitement of the community in which they live. Their decision has, too, more effect, and is more binding in the estimation of the community, because of a kind of sacred respect our people have for jury trial; you can, upon that verdict, remove your slave without difficulty, the very jurymen sustain you against a mob. Sir, we have had some little experience on this subject. In the very case out of which this bill more especially grows, the case in Michigan of the failure of an agent from Kentucky to get fugitive slaves, it was subsequently presented to a jury of the vicinage. But let me read from the evidence of the agent, laid before the Judiciary Committee. He says:

"Affiant then called upon some of the most active members of the mob to give him their names, and inform him if they considered themselves responsible for their words and actions on that occasion. They promptly gave their names to affiant, and he was told to write them in capital letters, and bear them back to Kentucky, the land of slavery, as an evidence of their determination to persist in the defence of a precedent already established. The following resolution was then offered:

"*Resolved*, That these Kentuckians shall not remove from this place these (naming the slaves) by moral, physical, or legal force.

"It was carried by general acclamation."

This was the state of things in Michigan when the agent was interfered with in bringing away these fugitives. The slaves went off and the claimant gave them up. What was the consequence? This citizen of Kentucky went to that very place, (Michigan,) and commenced a suit against these very individuals who had given their names, and recovered, before a jury of the citizens of that place, nineteen hundred dollars, the full value of the slaves, and got the money! Do you tell me, sir, that trial by jury is illusory and illusive? Why, the facts in this case repel the allegation. Suppose that, instead of a jury of twelve men, you had one of your petty commissioners or collectors there; do you think he would have faced the storm of public sentiment, and given to the claimant full value for his property? Not at all; he would have cowered before popular excitement. There have been, I understand, two other cases in Michigan, in both of which the jurors did their duty. I have a letter to that effect, from the district judge of that State, before me; and he says further, that he has never known, in that State, a jury to fail in the discharge of its duty upon this question. Well, sir, in the State of Pennsylvania, at Pittsburg or near it, I am informed, a jury, under like circumstances, did their full duty to the claimant; and the Senator from Pennsylvania (Mr. Cooper) now informs me there was another and more recent case at Carlisle, in which the jury found two thousand dollars for the claimant.

But there has been a case referred to by the Senator from Maryland, (Mr. Pratt,) that occurred in the city of New York, wherein

Judge Edmonds charged that the claimant was bound to show that, by the statute laws of Maryland, that State was a slave State, and in default of this testimony, the slave escaped. But, sir, was that the fault of the jury? No! If it was a fault at all, it was the fault of the judge.

Mr. SEWARD. It is due to the judge of the Supreme Court, before whom the case was tried, that I should state that the law of the State of New York requires, as matter of evidence, the production of the authentic provisions of the original statute, or an exemplification of it from the other States. This decision, therefore, was undoubtedly in conformity with the statute law of the State which regulates the admission of testimony in all questions whatsoever which may arise between States, whether of slavery or otherwise.

Mr. DAYTON. I am not censuring the judge. I said that in this case the acquittal of the fugitive was not the act of a jury, but the act of a judge—whether it was right or wrong, I care not, for it does not affect the question.

But, again, in the State of Ohio, I am informed, there have been at least two such cases, in both of which the jury found for the owners of the slaves; and in one, the Senator from Ohio before me (Mr. CORWIN) now tells me, on what, in his judgment, was insufficient evidence.

There have been of late some cases in my own State. There have been, within some five or six years last past, three fugitive slaves from the State of Maryland delivered up there, on claim made by the owners. Two of these slaves were tried by a jury of the county of Burlington, where I should think three-fourths of all the population are of Quaker blood or connexion, and of course imbued with their prevailing views and principles, adverse to slavery. But in these cases the jury at once gave back the fugitives to the claimant, and they were taken off to the State of Maryland. The third case occurred in the town of Princeton; and in that case the man had been living in the town as a free man for some time before. He was seen and claimed by a gentleman from Baltimore. The master made his claim; but not being then ready for trial, the slave was committed to the county jail of Mercer, to await the day named for hearing. The day came, and the case was tried; and although there was much sympathy for the black, the jury ratified the claim of the master. Some benevolent person or persons at once advanced five hundred dollars, (the price at which his master held him,) and paid for him on the spot. I may add, that he is now living in that town as a freeholder, and has refunded, as I am told, voluntarily, the whole, or a large part, of his purchase money!

In view of these facts, can it be justly said that this trial by jury, is an illusion, and no remedy for the grievance alleged? The history of the cases I have referred to repels that idea; and I repeat again that it is a thousand-fold better tribunal than any which you may compose by petty commissioners. Juries will take responsibilities, acting under the immediate obligation of their oaths, which no single individual, unless of high judicial position and character, dare incur. They are better for the master, if not for the slave. If they disagree, (which will not happen one time in fifty,) summon another at once. I ask any gentleman in the chamber to name one single case where they have failed in their duty.

Mr. Butler. Suppose the twelve jurors should hold the opinions of the Senator from New York, what would be the result?

Mr. Dayton. I would ask the honorable Senator if that is a fair *supposable* case? Is it not against all probability? [Laughter.]

Mr. Butler. I do not think so.

Mr. Dayton. Mr. President, you can see the extreme notions which have taken possession of the head of our friend from South Carolina. He thinks it probable that a jury of twelve men, summoned at random in the North, might all concur in the peculiar opinions expressed, as he thinks, by the Senator from New York on this subject.

Mr. Seward. What peculiar views have I advanced on this point? Will the Senator ask——

Mr. Dayton. Oh, no; I do not mean in this way to be pressed in between the two gentlemen, as a third object to be cut between the parts of a scissors. (Laughter.) They must settle the matter for themselves and *upon* themselves. I have said what I intended upon the subject of the fugitive slave bill. But before leaving the subject, I desire to say a few words in reference to the legislation of my own State. I feel that injustice has been done to New Jersey, although I know entirely unintentional, by the report of the Senator from South Carolina, (Mr. Butler.) My attention was not called to this until some short time since; but I find that in a report which the honorable Senator made at the last session of Congress, and of which ten thousand copies were then published, and ten thousand have again been published this session, he refers to the legislation of several of the Northern States, and to Pennsylvania in particular, not by way of invidious comparison, but because there had been a solemn decision upon her acts. He says:

"We refer to a law of Pennsylvania passed in 1826. It may be remarked here that New Jersey, Connecticut, Massachusetts, and several other States, *had* laws going beyond this in design and operation.

"The first section of that act provides that, 'if any person shall, by force and violence, take and carry away, or shall cause to be taken and carried away, or shall, by fraud and false pretence, seduce, or cause to be seduced, or shall attempt to take and carry away, or to seduce, any negro or mulatto, from any part of that Commonwealth, with a design of selling and disposing of, or causing to be sold, or of keeping and detaining, or of causing to be kept and detained, such negro or mulatto, as a slave or servant for life, or for any term whatsoever, every such person, by aiding and abetting, &c., shall, on conviction thereof, be deemed guilty of felony, and shall forfeit,' " &c.

The report also refers to the acts of Massachusetts and Rhode Island, prohibiting their State magistrates from taking any cognizance of cases under the act of Congress of 1793, making it a penal offence, and denying the use of the jails and other buildings belonging to the State, for the detention of fugitive slaves.

The first ten thousand copies of the report said these laws last named were in force in *all* the Northern and Eastern States; the last ten thousand say, in *many*, only. These last acts were retaliatory, I suppose, on the legislation of some of the Southern States for their course as to colored seamen. But New Jersey has not now, and never has had a law or laws of the description referred to. The section of the law under which Prigg was indicted for seizing and carrying a slave out of Pennsylvania, was in itself something like a section of a law existing in the State of New Jersey, passed in 1820.

Mr. Butler. That is the one I alluded to.

Mr. Dayton. I know that; but my learned friend did not look at the law itself, and did not examine the connexion of the sections. Had he done so, he would have seen that our act applied only to carrying, sending, or selling our own slaves out of the State, not fugitives. Our act of 1820 was a law for the gradual abolition of slavery in New Jersey. We had then about eight thousand slaves. Immediately upon the passage of that law, there was an inducement to slaveholders to export their slaves before the time came round when they were to be liberated; and this section was passed with a view to prevent the exportation to the South of our own slaves before the time came for their emancipation. But for this provision the whole object of the law might have been defeated. To take, carry, or export, or sell for that purpose, any slave out of the State was made a misdemeanor, and the slave so exported was made by the act free. Surely, they did not mean to set free fugitives from other States. The whole act shows that it was intended that its operation should be confined to our own slaves, and to prevent the fraudulent evasion of our law for their emancipation. As soon as final emancipation was consummated, this act in New Jersey was repealed, showing that it had no application to fugitives.

Mr. Butler. Will the Senator allow me to say that I scrupulously distinguish between the legislation before the decision in the case of Prigg, in Pennsylvania, and the laws passed afterwards, and I never suggested that New Jersey had any laws like those of Massachusetts and Rhode Island before that time?

Mr. Dayton. Well, New Jersey has, in my judgment, had none such since. The legislature of the State, *subsequent* to as well as before that decision of the court in 1842, made it the duty of the magistrates and executive officers of that State to assist in the surrender of fugitives under the forms of our own laws. They actually made this their duty, and made it a misdemeanor to refuse to perform it; and that is the law in New Jersey now. They have also given to the owners of fugitives the use of our jails, when they are not ready for trial; and in the last clause of the act which passed in 1846, there is an express reference to rights under the act of Congress. New Jersey has given a right to either party, as before said, to call a jury; and a wise law it is, and well for the slave-owner. But there is nothing in the legislation of New Jersey which brings her fairly within the scope of the Senator's condemnation. It is repugnant to the feelings of our citizens to deliver up fugitives. I admit that.

Mr. Seward. I am glad to hear you say so.

Mr. Dayton. There is no doubt about it; but still give a fair hearing, and if it be proven that the fugitive is a slave and the claimant his owner, it will be done. Our people are a law-loving and law-abiding people, and will not trample the Constitution of the country under foot. But I am doubly bound, not by loyalty as a citizen only, but by an oath to support the Constitution. I will not hesitate, therefore, to vote for a law proper in its character, for the purpose of carrying into effect this provision of the Constitution. But, sir, *we* are perhaps better judges of what that law should be than our friends of the South; we know what the feelings of our people are, and how much and in what way we can best accomplish the purposes of that

provision of the Constitution. I thus dispose, Mr. President, of the two matters of practical legislation which are before the Senate.

There has been much said, sir, in the course of this debate in reference to the subject of *compromise*—not a compromise of any specific character, but compromise as a general proposition. The South say they have nothing to offer but the Constitution. Now, sir, I am glad that they and I agree. That is my offer. That is my compromise. And that, I take it, is the very offer of compromise, that has been made to the South from the beginning. That is the Executive plan, the plan of the majority through its representative head. That plan, as I understand it, in reference to California and the Territories is *non-intervention.* California has settled the matter for herself. You say that you have a right to go to the Territories under the Constitution, and to take your slaves along with you. Very well. Go there. Try it. The South has asked that things remain as they are, that there may be no active interference on the part of the Government. Very well; there are the Territories. There is no legislation. Go to Deseret, go to New Mexico, take your slaves along with you, and see if the Constitution will protect you. That is my compromise.

Mr. Foote. Will the Senator allow me to ask him whether the South has at any time asked a non-intervention in the sense in which he is now describing it? whether our non-intervention is not in establishing Territorial Governments without the Wilmot Proviso?

Mr. Dayton. If the Senator had waited a few moments, I should have approached that part of the question, and shown that it is *intervention* the South seeks. Their object is to interfere actively, though indirectly, to plant slavery where it does not now exist. They have contended that the Constitution extends to the Territories, and gives them the right of carrying slaves as far as the Constitution extends. Very well. We say, Here is the Constitution; there are the Territories: now make the attempt. That I call non-intervention. As soon as you ask us to pass laws, the effect of which is to alter totally the existing state of things, you ask us to interfere actively in the matter. You ask us to intervene. You repudiate the doctrine of non-intervention. If the Constitution goes there, and gives you the right to carry slavery where it does go, it overrides of itself the Mexican laws. All Mexican laws that are repugnant to it will be void. Now, I say that, whether this plan of the Executive be wise or unwise, it is the *Constitution* as it is, without restriction and without enlargement. It may not be the most efficacious to a thorough and final settlement of the controversy, but it is good as far as it goes; and I can see no reasonable objection to it, except from those who wish us to interfere actively, and set aside, by territorial legislation, directly or indirectly, the existing laws of Mexico. If there be any other plan by which more can be accomplished, more done for the settlement of this exciting and heart-burning controversy, I will go for it with all my heart; but I very much fear that divided sentiment on this subject will prevent us from accomplishing as much, or at least as readily, what we should have accomplished by prompt and united action. For one, I have no doubt that the Mexican laws do remain in force in these Territories. I hold that slavery is a civil, a local institution, existing only by municipal law, and that law, whether to admit or prohibit it, is not abolished by the conquest or acquisition of the country by another

power. I hold, furthermore, that slavery is not a political institution of the Federal Government; that it is not an institution of this Government at all; it does not exist through or by its action; it has no control over it in the States to save or abolish it; and that consequently the Constitution of the Federal Government cannot carry it where it had not a prior existence. These questions I have argued before. My opinions are on record, and I do not intend to repeat them now.

Mr. President, I concur in the sentiment which has been expressed, that it is time that the North and South understood each other upon these questions. I desire, therefore, to say, that as far as I know the sentiment of the North in reference to the extension of slavery to free territory, it is settled, fixed, determined in its opposition. Its representatives here may sit in quiet while the South is tempest-tossed; while Southern feeling rolls in on us here, like foam on the crest of the billow; but, when the storm shall have passed, when its fury shall have spent itself, the North will be found just where it was in the beginning—calm, settled, determined in its opposition to the extension of slavery to free territory. That is my view of the feelings of the North. This feeling may be sought to be carried out by different persons through different means. One may be content only with a positive law passed to prohibit slavery there; another may content himself with laws of Mexico as they are; and yet another may say that God has decreed against it, and that it is useless to re-enact his decrees; but they all have the same object, the same purpose. He who used this last expression, (Mr. Webster,) which has been much carped at both in this chamber and by the press, used it, I presume, not in reference to the re-enactment of the moral laws of God, but of those laws which God had stamped upon the physical condition, upon the outward form of the universe, and to which the laws of man *could* add no sanction. But I may add, in passing, that it is not customary for human codes to re-enact God's other laws. I believe no one of us has ever seen the Ten Commandments re-enacted. Who has seen a statute saying "Thou shalt not kill, or steal, or bear false witness." The human law does not create, but recognises these as crimes, and merely attaches the penalty. But this is digression. I add that, while we are opposed to the extension of slavery, we are disposed to carry out these views only in good feeling and in what we believe to be the spirit of the Constitution. It has been a leading principle with the Whig party at the North from the beginning (both in and out of Congress) to oppose the admission of slavery to Territories now free. But, very unfortunately I must say for us, a party—no, not a party, but *a sect*, a *political sect*—has sprung up in our midst, who, taking advantage of a good principle in itself, have pushed it to extremes, connected it with abolition in all its phases, and have, I fear, done more hurt to us and the cause of human freedom than they ever have or ever will do to our adversaries and the system of slavery.

Mr. Underwood. That is true, no doubt.

Mr. Dayton. That party disclaims with great unction against slavery and all compromises with slavery; they deprecate as an unworthy thing that half-and-half virtue which leads us to tolerate it for a moment, or tamper with it at all; they denounce it as weakness, cowardice, because we see the right, and yet dare not pursue it. Mr. President, I always suspect, not the motives, but the moral and

mental perceptions of that class of men who, forgetting the possible infirmities of their own little sect of *one idea*, hold up their one principle, their single light, perhaps a farthing candle, with which to view and pronounce upon the opinions of all mankind. The Whig party North have other principles besides free-soil; and, without depeciating this, I trust that the party will live and flourish North and South when free-soilism and abolitionism, as mere party tests, shall have found one common grave. It has other and high principles of conservatism, which ultimately must regulate and control its destiny.

But, sir, this free-soil feeling at the North has not been, I am persuaded, a mere matter of sentiment, as the Senator from Kentucky (Mr. CLAY) seemed to intimate at an early stage in this debate. He said that he thought he might fairly ask of the North a greater sacrifice than was claimed in his compromise resolutions. That with the North it was "sentiment, sentiment, sentiment," while with the South it was a question of domestic security. Sir, if that were so, I grant that the South could call upon us for greater sacrifices; they could call upon us to sacrifice every thing to their safety. But, sir, in reference to the extension of slavery to these distant territories, this claim has no support; it is rather matter of sentiment upon the part of the South; and if it were sentiment on both sides, the propriety of concession, and how much, would depend upon the value of the sentiment advocated by the parties respectively. But the vivid picture portrayed by the distinguished Senator of a servile insurrection, burning dwellings, shrieking wives and children, as applicable to these distant territories, has no place; or, if a place, the picture must serve but as a warning, telling us to beware in season how we transfer to a soil now free institutions pregnant with such anticipated horrors. They warn us in time of the responsibility which we incur to posterity, if we plant slavery where it is not. We are about now, to lay the foundations of other commonwealths; the North say it is our duty, as statesmen and as men, to lay their foundations in such wise, that our children and our children's children, to the remotest generation, "may rise up and call us blessed!"—that they may not at some distant day say of us, in bitterness and in sorrow, "The stone which the builder did refuse, the same" should have been "the chief of the corner." This is the origin of Northern feeling; it is no sickly sentiment, but judgment, a sound discretion, which induces the feeling of the North upon these questions. Sir, draw the slave and free line from the ocean to the Mississippi, and mark the difference between the two sides. "Comparisons are odious." I have no wish to make them, but I know the magnanimity of Kentucky will excuse me. Kentucky, in 1790, had a free population of 60,000 souls. The sun shines upon no better soil, or stronger hands or stouter hearts than her own. Ohio, her neighbor, with no better soil, if so good, and no superior facilities, then or now, was then an unbroken, howling wilderness. Fifty years have rolled round. Kentucky has a free population of less than 600,000. Ohio has a free population of one million and a half! The same difference exists in reference to their productions, agricultural, mechanical, and manufactured. I ask, whence comes the difference? It comes, sir, from the single fact that Kentucky carries *dead weight*. She has been paralyzed in her efforts by the crushing influence of one institution. I do not wonder that

her people are attached to it; he who has been bred in its midst, nursed by the slave in infancy, followed by him in manhood, looked after by him in age—he may be unwilling to give up the comforts which attend this kind of domestic servitude. But, sir, when we are laying the foundation of empires, the question is not how a few may live in ease, but the question is, how the many shall best live, increase, beautify, and fructify the earth.

I repeat, again, that it is not sentiment only, but judgment, which operates upon the North in reference to its duties to these Territories. But, sir, this inequality in results has been accounted for by the distinguished Senator from South Carolina (Mr. CALHOUN, whose absence I regret, and the cause of which I regret still more,) with an ingenuity peculiar to himself. He has overlooked all trite truths and obvious causes, and has attributed it, among other things, to the result of the mode of levying duties and its distribution through the North. Well, I think the West, which has improved fastest, has derived no particular advantage from this operation.

Mr. CLEMENS. The honorable Senator has drawn a parallel between Kentucky and Ohio, without reference to their respective extent of territory. I ask him to run a parallel now between New Jersey and Alabama—the one a free, and the other a slave State.

Mr. DAYTON. I have not the material at hand to run such a parallel, nor do I think such a parallel would be a fair one. New Jersey is not only much smaller, but was an old State, of less fertility and different productions, and filled with population, comparatively, in 1790.

Mr. CLEMENS. That is precisely what I say of the other parallel. It is not a parallel.

Mr. DAYTON. There may be some difference in the size of the States of Kentucky and Ohio, but certainly not such a difference as to account for this great disparity, while their soil and general productions, I suppose, are alike.

But it is said that the distribution of the revenue is the cause of it; that we have sucked the life's blood out of the South, and distributed it through the North; that the effect of it has been to draw immigration to the free States, and that that immigration and its increase make the entire difference in population. Now, Mr. President, this idea struck me as a little peculiar; let us test it by facts, because it is a very easy thing to advance theories, if you may of right assume the necessary facts to support them. In 1790, the Senator from South Carolina says the population of the free States was 1,977,829; the population of the slave States 1,952,072—making a difference in favor of the free States of 25,827 only. In 1840, this difference had increased, he says, to 2,394,483, or, in round numbers, 2,400,000. And this increase is all accounted for by immigration and its increase. But to obtain an accurate knowledge of what has been the relative growth of the two sections of the confederacy, you ought to throw out the slave population from both sides, because, although they add to the property, they do not add to the citizens of the country. Take that rule. In 1790, the slave population of the North was 49,257, that of the South 648,440; deduct these from the population of the two sections of the country to which they belonged, and it leaves a difference in the free population in 1790, in favor of the North, of 625,010. Now, take the population in 1840,

and deduct the slaves in the same way from the free, and it leaves a difference of 4,880,403, or, in round numbers, near five millions in favor of the North. That is the actual increase on the original difference of 625,000.

Mr. FOOTE. Will the Senator bear with me for one moment? (Mr. DAYTON yielded the floor.) I would put it to him, whether it is fair and reasonable to argue as though the prosperity of a country depended on the extent of its population? Why, according to that rule, China and other countries, where, in consequence of superabundant population, they are compelled from time to time to put to death large numbers of children in a few days or hours after their birth, to prevent the population becoming too numerous, are in an extraordinary state of prosperity.

Mr. DAYTON. I was not speaking of the merits or wealth of the two sections, but of the increase of population, from which I think, in this new country, their prosperity may be inferred. I do not mean to *argue* the effect of that increase.

Well, it is said that this increase of five million is to be attributed to immigration and its increase. Now, I have looked a little into the statistics upon this subject. Mr. Macgregor published a work upon this subject in 1847, and he has given the results upon this subject from calculations made from the census of 1790 up to that of 1840, inclusive, and gives the result of each decade, some with more and some with less accuracy. But he has collected and collated all the known facts relative to this immigration and their increase for the last fifty years, and the whole number of foreign emigrants and their increase, he says, amounts to one million souls; that is to say, just one-fifth of the actual excess or difference between the increase of the North and the South. The emigration from the South must have been comparatively unimportant. And yet, sir, the Senator from South Carolina assumed, without giving the smallest data, that the entire difference was accounted for by immigration and its increase. This is a mistake. You cannot account for the unparalleled growth of the free States, and the unnatural and comparatively dwarfed condition of the slave ones, on any such ground. I call it unnatural, because the Southern States were first settled; they have, as a whole, as good a climate, a better soil, a good water power, a fine inland navigation, and a high-minded, intelligent population. It can be attributed, I think, to nothing but the result of their peculiar institution—to the fact that the labor of slaves is less productive, in proportion to the number employed; is more expensive to the employer, though habit makes it unfelt; and repels from its side that labor which labors for itself, and will only labor where labor is respectable.

Well, Mr. President, I shall be asked, What then! will you vote for the Wilmot Proviso? Is that your principle? My answer is, that I am willing to stand upon the doctrine of "non-intervention" as to New Mexico and Deseret. But if you force me to a vote on this question, if a territorial bill be presented, and the ordinance of 1787 is moved, I will vote for it; but if voted down, I may yet vote for the bill; that will depend upon other circumstances. I have no doubt that the power to insert the ordinance exists. The power has been often exercised, but I do not care to see it exercised now in this case, if you are willing to stand upon the doctrine of non-intervention. But

then it will be asked, Do you think slavery will go into the Territories? If you do not, why should you vote for the Proviso? I do not think that slavery will go into these Territories as a *permanent* or principal institution. The adaptedness of this territory to negro slavery may be judged of, not only from the general character and features of the country, but from the additional fact that negro slavery has not gone there during the one hundred and fifty or two hundred years when it was open under the Spanish power, whilst it has gone into all the other Spanish colonies. It must be remembered that St. Augustine and Sante Fe are the oldest European cities on this continent; that the Gila was explored before the Mississippi was known, and that California gold was sought after before the first white man found a home on the barren shores of New England. Still, I think that if you will fill Texas with slaves up to the line, they will go over, just as they went into Illinois, where, at the last census, there seemed to be still some three hundred and twenty-odd. But if there were doubt in my mind, I confess a strong repugnance to having my vote stand on the record against the application of the ordinance of 1787 to territory now free; posterity will not stop to analyze very closely our reasons or scrutinize our motives, but the vote will stand of record, carrying with it its own malconstruction. If it is understood that slavery cannot reach that country, it seems to me that the question has come down to a small point indeed. Why not insert the Proviso? We are told that it will offend the South; that it will touch their sensibilities. Now, I do not want to do that; and yet, if it be a question of sensibility between the North and South, I suppose I may say that there are as many persons in the North whose sensibilities will be touched by its omission, as there are persons in the South whose sensibilities will be touched by its insertion. But now this great question (if it be admitted that slavery cannot go there) is whittled down to a point like this: a question of delicacy, a point of etiquette between the North and the South, and we have had all this war of words and intense excitement about a question of this kind! Why, California out of the way, never before was there such an insignificant cause for such an uproar! We have the North and the South contending with each other to desperation upon the small chance (an admitted decimal only) of slavery going where it is said it cannot—into these Territories now free! The subject-matter is not worth the effort; "the play is not worth the candles."

But, sir, there are other questions that have been called into this debate, to wit, the abolition of slavery in this District, in the forts, arsenals, dock-yards, &c., the slave trade between the States, and the boundary of Texas. My answer to all this matter now is, these questions are not pressing. I should be happy to see them all settled, but I do not desire to anticipate events. I fear that to this subject, more than to any other, applies the remark, "sufficient for the day is the evil thereof." We may settle these things in detail, may work them off piecemeal when it could not so well be done as a whole, all at once. If we bring all the combustible material together, we but increase the chances of an explosion. I do not care to see every question of dissension and discord, like witches' "hell-broth, boil and bubble" in the same cauldron. I am no admirer of that domestic philosophy which prefers that when the child has the measles it should take the

mumps, the scarlet fever, and chicken-pox, just that it may go through with and end the series. It is all well enough perhaps, if the series did not sometimes end the child. Let us dispose of California first, and then the fugitive slave bill; we will thus have gotten rid of two of the greater elements of excitement. Then, as to New Mexico and Deseret, let them alone; the South cannot very well secede, because we do nothing. In the meantime Nature will work off the disease herself. It is true the country will be fevered a little longer by this process, but that is better than any legislative pill or bolus, "warranted to kill or cure." Let Nature take her course, and she will work her way through without ultimate injury to the *constitution* of the patient. The Territories will take care of themselves.

I have no idea, Mr. President, that any considerable portion of the people of this country desire disunion. At the North I am sure they do not; and the South, I think, can have no wish, with a view of getting rid of trivial evils, to rush into a state of things that will multiply them a thousand-fold. The Senator from South Carolina said the other day that he did not see how the North could be sincere in their professions of attachment to the Union and love to the Constitution; that if we had but half the love for it we professed, the thing would be easily settled. I would not for one moment doubt the sincerity of that Senator. His late speech (the most extraordinary of his life, I think) stands and will stand its own exponent. I am glad that it was delivered; it will, I think, satisfy some of the admirers of that Senator in what direction his doctrines tend. I could not but feel that in it, and through it, were strange inconsistencies. He assails us for want of sincerity, and yet how does this speech run? He tells us, in substance, that he loves the Union; he comes to speak of it, not at its funeral, not to "bury Caesar," but to save him. And yet how he pointed to those gaping wounds; "those poor, poor, dumb mouths;" how he called the already excited South around the mangled body of the Constitution, and pointed it *here!* and *here!* and *here!* without doing us even the grace to say "they are all, all honorable men!" And after the South had been excited to madness, if they saw things as he did, he says, "We alas! can do nothing. We have yielded so much that we have little left to yield. The North can easily do all; we ask but justice; let them restore the equilibrium, give us guaranties, amend the Constitution, (things as likely to happen as that the stars shall fall,) and then all will be well, and the Union safe."

I would not, under the circumstances, for the world, question the sincerity of the Senator, nor give utterance to an unkind thought; but surely there is an idiosyncrasy about him when he touches this subject that I do not understand. I yield to him, what I claim for the North and for myself, love to the Union and attachment to the Constitution. This I believe to be the feeling of the country at large. We may differ as to the best means of securing a common end, but let us differ in the spirit of friends, and not of foes. Let us gather in here, if we can, as to one common centre, not the harsh and discordant, but the kindly feelings of our countrymen. If the ship be among breakers, the more need that pilots and helmsmen be calm; the more need that they have an eye steady to the Union and the Constitution, those only beacon-lights which can save from wreck the hopes and happiness of millions that are, and the millions that are to be.

SPEECH

OF

HON. LEWIS CASS, OF MICHIGAN,

IN SENATE OF THE UNITED STATES, MARCH 13 AND 14, 1850,

On the Compromise Resolutions of Mr. Bell, of Tennessee, and the proposition to refer them to a Select Committee.

Mr. CASS said: On this subject, sir, I agree precisely with what was said by the distinguished Senator from Kentucky, [Mr. Clay.] I shall vote for the reference. I should vote for almost any proposition that had the appearance of bringing this country into harmony upon this perplexing question—almost any proposition that may be submitted, that has even the appearance of such a result. I do not see any possible objection to this course. It commits no one. It is simply an instruction to a committee to inquire into what can be done.

It does not suspend the operations of the Senate at all. Its discussions, its debates, its votes, will go on, as though this question had not been submitted to a committee. It is one chance more for terminating this fearful controversy. I agree, too, with the Senator from Kentucky, that my hopes are not strong, as to any favorable result to grow out of this committee. The chances have been much diminished by the vote taken on yesterday. If that vote contained any indication of the feeling in this chamber, with regard to the committee itself, and the benefit to result from it, I am sorry to say, that I can anticipate very little good from the proposition of the Senator from Mississippi, [Mr. Foote,] relative to the resolutions prepared with great care, and submitted with great good sense and excellent good feeling such as have always distinguished the Senator from Tennessee, [Mr. Bell.] For myself, I am not prepared to say, what my views will be upon this whole matter. They are not yet formed. I say, merely, that this course holds out one hope the more, and is, therefore, well worthy of adoption. So far as respects the proposition connected with Texas, I am myself prepared to consider it in a spirit of fairness and liberality. The honorable Senator from Tennessee [Mr. Bell] said, that a doubt has been suggested with respect to the disposition of this Senate, and perhaps of the country, to carry into effect the Texas guarantics. I believed, that that gentleman was wholly in error. I am sorry to find, from various indications here, that he was not. For myself, without going into the general question at all, I am prepared to say, that as long as I have a vote to give, I will faithfully carry out the spirit of the articles of annexation; and I will not look behind their guaranties. I will abide by them, and I am prepared at all times to say so.

But however this proposition may terminate, I think the country is under lasting obligation, to the Senator from Mississippi for his efforts to adjust the existing difficulties. While he has proved himself true to his own section of the country, he has proved himself true to the whole country. He has stood up manfully for the rights of the South, but he has stood up, also, for the obligations of the Constitution. And I must say, too, that I have seldom seen an instance of greater moral courage, than has been displayed by him. The distinguished Senator from South Carolina occupies, we all know, a high position in the country; and from the zeal, and energy, and ability, with which he has long advocated the cause of the South, he has almost rendered himself the representative of southern opinions. When, in the name of that section of country, he advanced claims which, if persisted in, would have presented insurmountable obstacles to the amicable adjustment of these difficulties, the Senator from Mississippi came forward to disavow the sentiments thus advanced. He came as a messenger of peace, to pour oil upon the troubled waters. He deserves the gratitude of the country for this noble effort. I must confess, my own impressions agreed with the impressions of the honorable Senator from Mississippi. I thought the speech of the Senator from South Carolina was calculated to produce the most unfavorable results.

I listened, Mr. President, with great regret, to the speech of the distinguished Senator from South Carolina, [Mr. Calhoun.] I am not going to criticise it—my great respect for that gentleman will prevent me from doing so. I will merely say, that there was a strange collection of facts, as well as a strange collocation of them, and that these were followed by strange conclusions. I think, Mr. President, I may say, and I imagine this feeling is general in the Senate, that a sombre hue pervaded his whole speech, in consequence of its being prepared in the recesses of a sick chamber. Had he been able to walk abroad in the light of heaven, and felt the breezes blowing upon him, I am sure his remarks would not have been as gloomy, nor the results as desponding. We have all felt this, sir, and know how to sympathize with him.

I repeat, that I am not going to criticise the speech of the honorable Senator; but there was one expression, I remember, which grated harshly upon my ear. He denominated Washington the *illustrious southerner!* Not the renowned warrior —not the eminent statesman—not the distinguished citizen—not the great American—not the beloved Virginian—but the illustrious southerner! *Our*

Washington—the Washington of our whole country—receives in this Senate the epithet of "southerner," as if the glory of his name and fame could be divided or assigned to a single section of his beloved country—as if that great man, whose distinguished characteristic was his attachment to his country, and his whole country, as is so well known, and who, more than any one, deprecated all sectional feeling and all sectional action—loved Georgia better than he loved New Hampshire, because he happened to be born on the southern bank of the Potomac. I repeat, sir, that I heard with great pain, that expression from the distinguished Senator from South Carolina.

I heard the disavowal of the honorable Senator from Mississippi [Mr. FOOTE] with the more gratification, because it was followed by an explanation from the Senator from South Carolina, [Mr. CALHOUN,] which, though it did not remove my apprehensions, certainly diminished them. If the impression which I, as well as many others, received, respecting the nature of these propositions, had been correct, the handwriting was already upon the wall. "God hath numbered thy kingdom and finished it," announced with no more certainty to the wondering King of Babylon the destruction of his empire, and the termination of his life, than would these propositions—if the continuance of our Union depended upon their adoption—have announced that, "God hath numbered our Republic and finished it." To what new Medes and Persians we should have been delivered, is known only to Him, who holds in his hands the fate of nations.

We have been three months here, and what have we done? Nothing. We have not passed a single law of the least national importance. We have occupied the whole time by the discussion of this question, and no practical result has been attained; and present appearances do not indicate, that such a result is near. But, though we have done nothing, we have ascertained that some things cannot be done. We have ascertained (I think I may say with certainty) that no Wilmot proviso can be passed through this Congress. That measure is dead. It is the latest, and I hope it will be the last, attempt that will be made to interfere with the right of self-government within the limits of this Republic. I think we may also say, that no Missouri compromise line can pass, and that no one expects or desires that it should pass.

Mr. President, what was that compromise line? Allow me to read the law which established it:

"SEC. 8. *And be it further enacted*, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted, shall be, and is hereby, forever prohibited."

Now, sir, what is that provision? It is intervention north of the line of 36° 30', and non-intervention south of that line. Why, sir, there is not one southern Senator on this floor, and not one southern member of the other house, nor indeed a southern man anywhere, who understands the subject, who would accept that line as a proper settlement of this question.

Mr. FOOTE, (in his seat.) I would not.

Mr. CASS. Sir, the whole doctrine of equal rights and of non-intervention is taken away by it at once. Putting out of view the constitutional objections to such an arrangement, it gives the South nothing, while it prohibits the people north of 36° 30' from exercising their own will upon the subject. The true doctrine of non-intervention leaves the whole question to the people, and does not divide their right of decision by a parallel of latitude. If they choose to have slavery north of that line, they can have it.

Mr. CALHOUN, (in his seat.) We are very competent to judge of that matter ourselves.

Mr. CASS. Is there a Senator on this floor, who would accept a proposition to apply the principle of non-intervention to a part of the territory, leaving to the people of the other portion to do as they please? No, sir; there is not a southern Senator here who would vote for it. I will tell you, what would be voted for, because it has already been announced—a law declaratory, mandatory, or permissory, for the establishment of slavery south of the line of 36° 30'. The distinguished Senator from South Carolina might be willing to accept a declaration, that slavery does now exist, or that it shall exist, or may exist, south of a certain line; but I take it for granted, that no Senator from the South would be willing to abandon the ground of non-intervention, without some provision like that.

Mr. FOOTE. Permit me freely to say, that I would no sooner vote for a southern Wilmot proviso, than I would for a northern one. I rely, and am content to rely, upon the Constitution. I was not convinced by the argument of the Senator from South Carolina, of the necessity, or expediency of going further than that. I rely with entire confidence, upon our rights under the Constitution, and the treaty by which the territories were acquired. I ask for no legislation upon the subject, but simply that the whole matter be let alone. I ask nothing but the doctrine of non-intervention.

Mr. CASS. Mr. President, I will not argue this point. I was about to say, that what the law is, is a question for the decision for the judiciary; but what the law shall be, it belongs to the legislative department to declare. If we have the power to pass a law declaring the existence of slavery, which is to be attended with any practical result, we necessarily possess jurisdiction over the whole subject-matter. We have the same power to pass a mandatory law, commanding the existence of slavery, as a declaratory one, recognizing its existence. And I will appeal to every Senator, northern or southern, eastern or western, if there is any probability—I may say, possibility—of such a law passing this Congress? No one asks it—no one expects it. The Missouri compromise line is, therefore, as much out of the question as the Wilmot proviso. The fact is, Mr. President, it is in no way applicable to the existing state of things, though it was applicable to the country where it was established, because slavery was there an existing institution, and it was left in force south of 36° 30'. Insuperable objections, therefore, exist to such an arrangement, where the condition of the country is entirely changed.

Well, then, Mr. President, if these things are impossible—if they cannot be done—it remains to inquire what it is in our power to do.

My own opinion is, sir, that we should take up the bill for the recapture of fugitive slaves, reported

by the Judiciary Committee. I am disposed to suspend all our discussions, and to lay aside all other business, with a view to act upon that bill, without unnecessary delay, and to pass it in such form as may be acceptable to a majority of this body. That is a point upon which the South feels most acutely, and in regard to which it has the most serious cause of complaint. I have heard but one man in this body deny the existence of this evil, or the justice and necessity of providing an adequate remedy.

The act of 1793 provided that the State magistrates in the various cities and counties of the Union should carry that law into effect. This provision has been since rendered nugatory, as these officers will not now act, and consequently the judges of the United States alone have jurisdiction over the subject. They are not enough for that purpose, and the law, therefore, requires an amendment. I, for one, am willing to take up the subject, and provide the necessary means of carrying the provision of the Constitution into full effect. Such a procedure would have the very best effect upon the South at this time. It would be a pledge of our sincerity, and of our desire to do justice to that great section of our common country.

If I understood the Senator from New York, [Mr. SEWARD,] he intimated his belief that it was immoral to carry into effect the provision of the Constitution for the recapture of fugitive slaves. That, sir, is a very strange view of the duties of a Senator in this body. No man should come here, who believes that ours is an immoral Constitution; no man should come here, and, by the solemn sanction of an oath, promise to support an immoral Constitution. No man is compelled to take an oath to support it. He may live in this country, and believe what he chooses with regard to the Constitution; but he has no right, as an honest man, to seek office, and obtain it, and then talk about its being so immoral, that he cannot fulfill its obligations. It is the duty of every man, who has sworn to support the Constitution, fairly to carry its provisions into effect; and no man can stand up before his fellow-citizens, and maintain any other doctrine, whatever reasons he may urge in his vindication.

In one of the most disingenuous portions of the speech of the honorable Senator from New York, [Mr. SEWARD]—which itself was one of the most disingenuous I have ever heard—he speaks of "slavery having a reliable and accommodating ally in a party of the free States," and he says he "bears witness to its fidelity to the interests of slavery."

Now, I ask the Senator from New York, if he believes there is a man in this Senate from the North, whose course is influenced by his fidelity to slavery; and if he does, what right he has to cast odium upon gentlemen, who are associated with him in the high duties which belong to our position?

Mr. SEWARD. The Senator addresses a question to me, and I rise for no other purpose than to answer it. I think it was Mr. Jefferson who said that the natural ally of slavery in the South, was the Democracy of the North.

A SENATOR. It was Mr. Buchanan.

Mr. SEWARD. I have heard it attributed to Mr. Jefferson. However this may be, I believe it. I assail the motives of no Senator. I am not to be drawn into personal altercations by any interrogatories addressed to me. I acknowledge the patriotism, the wisdom, the purity of every member of this body. I never have assailed the motives of honorable Senators in any instance, I never shall. When my own are assailed, I stand upon my own position. My life and acts must speak for me. I shall not be my own defender or advocate.

Mr. FOOTE. Do I understand the Senator from New York as saying Mr. Jefferson asserted that the northern Democracy was the natural ally of slavery? He never said such a word.

Mr. CASS. I will not touch upon that question; but I will ask the Senator from New York in relation to another point—and that is, if he meant it in the sense which Mr. Jefferson, or whoever may have used it, intended? The one was intended as a commendation for their attachment to constitutional principles—the other as a slur upon a great party.

Mr SEWARD. I answer promptly and freely: I had no purpose of casting reproach upon, or of reflecting upon, any member of this body, or upon any person anywhere. The remark had no such connection. I ask leave now to say, that such as I described, is, in my view, the political organization of the parties of this country; that slavery has the support, the toleration (given honestly, and from patriotic motives, I admit) of the party to which I referred; and that its alliance with slavery constitutes its tower of strength. On the other hand, the party to which I belong, is a party which is more distinctly identified with the progress of the sentiment of freedom or emancipation, and therefore it is weaker in its alliances with the South. I again disavow, as I always shall, any reflection upon the conduct of Senators here. I know the motives which govern me. I have no reason to question—I never do question—the motives of others with whom I am associated.

Mr. DAWSON, (interposing.) Will the Senator permit me to inquire if I understood him to say this, that these were the sentiments of the party to which he belongs? I want to know if he claims to belong to the Whig party? [Laughter.] If he does, it will be known to every true Whig that I do not belong to his party; and I hope that when he speaks for the party to which he belongs, he will not put under his banner the Whig party of the United States, the conservative party of this country, together with the Democratic party, which I admit to be conservative, too.

Mr. SEWARD. I will not detain the honorable Senator from Michigan with categorical replies to my friend from Georgia, [Mr. DAWSON.] I pretend to speak no man's sentiments, and for no man but myself. I am a citizen of the United States. My duty is to promote the welfare, interest, and happiness of the people of the United States; and I hold that I can do so in no effectual way by going alone and independent. That is always the error of schismatics. Therefore, in the discharge of my duty, I ally myself to such a party as I find most approximate to the principles and sentiments that I entertain. I will do the Whig party the justice or the injustice to say, that I have been a member of it all my active life; and I will do it the great disservice to say, that no matter what may happen, and who may put me under the ban, I shall be the last to leave it, how-

ever individuals may disown me, or the principles I maintain. I shall adhere to it, because I think, of the two great parties, it is the most devoted to the cause of freedom and emancipation. I will, however, do the Whig party the justice, if it be such, to say, that these sentiments of mine upon that point, are not in accordance with the sentiments of that party throughout the whole country—that I do not profess to speak for it, but for myself alone. I have, however, great hopes that the Whig party, and the party claiming to be the party of progress, to which I refer, and ultimately all parties, will come to precisely the same conclusions which are the guide and governing principles of my own conduct.

Mr. CASS, (resuming.) I was going to remark that, with respect to the creed of the Whig party, or the orthodoxy of the Senator from New York, it is a matter with which I have no concern; but with respect to progress, I have something to say. My progress is within the Constitution. My age of progress is circumscribed there. If the Senator from New York is going out of it, I do not believe in his progress at all. No, sir! My object is to support the Constitution which, under God, is the source of our prosperity and happiness.

Mr. SEWARD, (in his seat.) That is mine.

Mr. CASS. The Senator from New York says, that also is *his* object. If it is, I think he has a very strange way of showing it, by pronouncing it immoral, and denying the validity of its obligations. It would last scarcely a day, if that Senator, with this avowed principle of action, had the direction of the Government. I do not say that it would be dissolved immediately, but the seeds of dissolution would be sown, and would ripen into a harvest of calamity as speedily as the rankest vegetation gains maturity under a tropical sun.

The honorable Senator from Illinois [Mr. DOUGLAS] has the floor to-day, and I do not wish to interfere with that arrangement. I have not concluded my remarks, and I would move to postpone the further consideration of this subject until to-morrow, at half-past twelve o'clock.

Mr. CALHOUN. I have a few words to say in reply to the observations of the Senator from Michigan, and, as it is in reference to a point of some importance, I desire that what I say shall go out with his remarks. I regret very much that the state of my health does not permit me to enter fully into the argument, and that I shall be under the necessity of economizing my words, as well as my strength.

Mr. President, the Senator could not have heard me with more regret, make the declaration to which he has alluded, than I have heard him this morning make the declaration which he has made. Sir, the Senator and myself have two distinct and different conceptions as to the mode of saving this Union. His whole course has been a course of palliatives. And, sir, of all courses, that is far the worst. Why, sir, you might as well treat a cancer, that is about striking into a vital part, with palliatives, as to treat this question with palliatives. No, sir! my idea has been from the first, that it was a disease that would be fatal if not finally arrested; and I have acted upon that impression. If I am wrong, it is because the impression is wrong; and in order to arrest it, it is necessary at every stage of it, to understand the real causes and progress of the disease, and the causes by which it endangers the Union. In my late speech, which the Senator has heard with such profound regret—and I am amazed that my meaning should be so utterly misunderstood by the honorable Senator from Michigan—I stated simply, and in as few words as I could, what would certainly, according to my judgment, save the Union, promote conciliation, and restore harmony and good feeling throughout all sections of the Union. That was the amount of what I said. Now, I ask, can the Senator believe that the South is safe, while one portion of the community hold entire possession of the power of the Government, to wield it for their own benefit, in any manner they please, and while they see fit to interfere between the two sections of the Union? Can any man believe that the South is safe while this state of things exists? No man can say that he believes it. I do not, at least; and, therefore, all the wonder of the honorable Senator upon that point may cease. But the Senator says, it is impossible to comply with the requisition of giving us a new constitutional guaranty. Well, that very declaration goes to show——

Mr. CASS. The honorable Senator entirely mistakes. I certainly did not say anything of the kind.

Mr. CALHOUN. I said, in my remarks the other day, that such amendment in the Constitution must be made as would give to the South——

Mr. CASS. The Senator will pardon me, I have not alluded to the subject of an amendment to the Constitution. I was coming to it, however, and should have spoken of it before concluding my remarks. I should prefer, therefore, that the distinguished Senator from South Carolina should hear me before he undertakes to reply.

Mr. CALHOUN. I understood the argument of the Senator as leading to that.

Mr. CASS. I hope the honorable Senator will defer his remarks until to-morrow morning.

Mr. CALHOUN. I do not know that an opportunity will then be afforded me of saying what I desire to say upon this point. The Senator says that new guaranties cannot be given by amendments to be made in the Constitution. Sir, I insist that that is the legal and constitutional mode—it is the mode pointed out by the Constitution itself. Why, who ever before heard of such a suggestion as, that to amend the Constitution would be treason? It shows a state of feeling existing in the mind of the Senator which, in my opinion, is inconsistent with judicious action.

I intended to branch off here, and to show, that the distinguished Senator, if this Union is ever to be dissolved, will have contributed his full share to its dissolution; that the very entanglement we are now in, originated in the last Presidential election, and, as I think I have demonstrated, originated in a violation of the Constitution, and in a violation and disregard of the sovereignty of the States. Whenever the Senator chooses to go into a discussion upon this point, I am ready to meet him.

Mr. President, I must necessarily abbreviate what I have to say. The distinguished Senator heard me with painful feelings designate Washington as the illustrious Southerner. Why, the Senator ought to remember, that every effort has been made to take Washington out of our hands; but it seems that the morality of the present time is, that

the assailant is perfectly innocent, and the assailed the only guilty party. Yes, sir! it was endeavored to take him out of our hands; and we are to be stigmatized as disunionists, and his message—his farewell address—to be quoted against us, while I venture to assert, that the greater part of that message bears directly upon the assailants, and not the assailed. It was to meet this, that I reminded the Senate and the world—and rightly reminded them—that Washington was an illustrious Southerner; he was not the less an illustrious American; but I must say, that the whole proceeding here, for the last fifteen years, has been such that, if carried out and consummated, as it will be, unless some definite understanding is arrived at, the end of the whole will be the holding up of Washington as a miserable slaveholder. I do not insinuate that Washington should be regarded exclusively as a southern man; I only say, we have a right to claim him as an illustrious Southerner, for he was a southern man—a southern planter—and we do not intend that he shall be taken out of our hands.

Mr. President, with these remarks, I will content myself for the present, without detaining the Senate further.

Mr. CASS. One word, Mr. President, for I do not wish to be misunderstood: I have not uttered a syllable in regard to the Constitution, or the constitutional amendment suggested by the distinguished Senator from South Carolina—not a word. The honorable Senator supposed that I had arraigned him for seeking a constitutional amendment. Such an idea never entered my head; and allow me to tell the Senator, that that was not the difficulty at all.

Mr. CALHOUN. What was it, then?

Mr. CASS. The ground upon which it was put by the honorable Senator, that if a guaranty were not given to the South, by an amendment to be made to the Constitution, it would be fatal to the country.

Mr. CALHOUN. Certainly; it would, in the end, be fatal.

Mr. CASS. But the honorable Senator said it must be done immediately, or it would be fatal to the interests of the country.

Mr. CALHOUN. No, sir; that is not the language I used.

Mr. CASS. I beg the honorable Senator's pardon; it is so stated in the speech: "If the question 'is not *now* settled," says the Senator, "it is uncertain whether it can ever be settled hereafter."

Mr. CALHOUN. Certainly.

Mr. CASS. And one of the processes by which it is to be done is, by amending the Constitution. There were two points stated by the honorable Senator. One was, that there must be an amendment made to the Constitution; and the other, that the admission of California be made a test question.

Mr. CALHOUN. Certainly.

Mr. CASS. That if California were admitted, it would be followed by a dissolution of the Union.

Mr. CALHOUN. No, sir. I wish the Senator would read the remarks I made in reference to that point.

Mr. CASS. I will read them, sir, with pleasure:

"If the question is not now settled, it is uncertain whether it ever can hereafter be; and we, as the representatives of the States of this Union, regarded as governments, should come to a distinct understanding as to our respective views, in order to ascertain whether the great questions at issue can be settled or not. If you who represent the stronger portion, cannot agree to settle them on the broad principles of justice and duty, say so; and let the States we both represent agree to separate and part in peace. If you are unwilling we should part in peace, tell us so, and we shall know what to do when you reduce the question to submission or resistance. If you remain silent, you will compel us to infer what you intend. In that case, California will become the *test* question."

Mr. CALHOUN. Read on—read the whole.

Mr. CASS. I will, sir.

"If you admit her, under all the difficulties that oppose her admission, you compel us to infer that you intend to exclude us from the whole of the acquired territories, with the intention of destroying, irretrievably, the equilibrium between the two sections. We would be blind not to perceive, in that case, that your real objects are power and aggrandizement, and infatuated not to act accordingly."

Now, is there a Senator here who does not know what that means? I do not affirm that it is objectionable to propose an amendment to the Constitution. Far from it—that is one of the most harmless things in the world; but the admission of California, according to the honorable Senator, is to be made a test question; and it went to my heart's core when I heard the declaration, for I knew very well, if that was to be a test question—if such was the sentiment of the South—the Union was gone. An immediate amendment of the Constitution, I consider almost impossible. I do not say that amendments may not be made; but it should be done only under the pressure of extreme cases, and extreme difficulties; for if we begin to make changes and alterations, he who is the Ruler of nations, alone knows what changes may be made, and what sort of a Government this will become.

In commenting on the honorable Senator's remarks, I have connected these two subjects—the amendment of the Constitution now or at a reasonable time, and the point that was made by him, that the admission of California was to be a test question.

Mr. CALHOUN. I must say there has been a strong disposition manifested on the part of the honorable Senator, to misconstrue my expressions—and plain expressions they are. The Senator says I asserted, that a dissolution of the Union would follow the admission of California. I did not assert that. I stated that it ought to be considered a test question; but I leave it to my constituents to determine what course they will take. Let the gentleman give the words I used, and I am willing to stand by them; but he must not expect me to be responsible for his interpretation of them. Well, in regard to the word "now," I did not intend to be understood as asserting that the amendment must be made instanter, but that an indication should be given now, that such amendment would be agreed to, and let it then be carried through the ordinary process.

The debate was then continued by Messrs. CALHOUN, FOOTE, DAVIS, of Mississippi, BUTLER, and DAYTON, and then the Senate adjourned.

THURSDAY, *March* 14, 1850.

Mr. CASS resumed and concluded, as follows:

Mr. PRESIDENT: Before I resume my remarks at the point where I left off yesterday, I have a question to put to the Senator from Mississippi, who, (said Mr. CASS, looking round,) I am sorry to see, is not in his seat. I regret he is not; but I will postpone the reference I designed making to

him until the close of my remarks, when perhaps he may be here. I spoke to him this morning on the subject, and therefore he is perfectly aware of the question I wish to put.

I was remarking yesterday, when I resigned the floor, that there were certain things we could not accomplish, and others that, with equal certainty, we might take for granted we could do. Among the latter, was the bill providing for the recapture of fugitive slaves; and another object, which I trust will be accomplished, is the providing of a government for the new territories. I think it essential to calm this agitation, and so long as these territories are left without governments, so long will the present state of things continue, and this agitation be kept up, which is so harassing to the tranquillity, and dangerous to the peace, of the Union.

That a law may be passed authorizing the people of the territories to govern themselves, without any Wilmot proviso being attached to it, is my wish and my hope. I am not going to say much upon the propriety of the admission of California, for the remarks, that have fallen from my friend from Illinois [Mr. Douglas] are so well expressed and so pertinent, that they preclude the necessity of entering anew into that topic at any length.

I understood the distinguished Senator from South Carolina to admit, yesterday, that he did make it expressly a test question. As I remarked before, it was this demand of the honorable Senator that excited in my mind serious apprehensions as to the result; for I knew, and every member of this Senate knew, that if this were made a test question, upon which the fate of this Republic depended, that fate was sealed. I trust I may be permitted to say, with regard to this issue, that it appears to me not only unwise but useless, for the reasons so well expressed by the Senator from Illinois, in his speech to-day.

No gentleman on this floor, from the North or the South, the East or the West, will rise in his seat, and say he believes that slavery will ever go into the Territory of California; no one can believe this, for a moment. What, sir, would the southern States gain by sending California, after she has come here with a constitution in her hands, back again, to undergo the process of a territorial government, and then to return here a year hence—every year perhaps for ten years—and revive the question anew? What would be gained by it for any portion of the country? Is it a battle worth fighting? Is the object to be accomplished really worth the contest? Sir, there is no object that can be accomplished by such a course of procedure. Under existing circumstances, what kind of territorial government can be established there? Can any territorial government be established? And is this unsettled state of things to go on, from year to year, perpetuating the bitter feelings that have already sprung up between one section of the Union and the other? But I have said also that such a course is unwise; and I trust my southern friends will pardon me for saying, that they are making a very unwise issue.

Sir, we cannot stand before the country, and before the world, and object to the admission of California, on the ground that has been urged. The objection is not to her boundaries, though that topic has been much debated. The honorable Senator from Illinois, whom we have all just heard with so much pleasure, has discussed the subject so ably and clearly, that it would be a work of supererogation in me to renew it. I myself was at first startled at the boundary claimed, stretching as it does along the coast of the Pacific almost one thousand miles—a much greater extent than any one State in the Union ought to possess. As the Senator from Illinois and myself are together in the same house, we have conversed repeatedly upon this subject, and with an earnest desire to reduce these boundaries, if the nature of the country would permit. With this view, he examined various lines proposed—the parallel of 36° 30′, and the southern range of mountains—to ascertain what proper limitation could be imposed upon the new State. But he ultimately became satisfied, that no change could be made. The country between the ocean and the sea is a narrow one, and east of the mountains is a desert, and in proportion to its extent, the quantity of arable land is small. Be the boundaries as they may, it is not probable that its population will ever be as great, as that of some of the other States of this Union. And if its southern boundary were to stop at the mountains, there would be left between them and the Mexican possessions a small district of country, which would have to remain for an indefinite period, perhaps forever, in a colonial condition.

The Senator from South Carolina, [Mr. Calhoun,] who I regret to see is not in his seat today, does not assume this ground as an objection to the admission of California. That objection rests upon her present position and mode of application; because she has established a Government of her own, without passing through a territorial process, and comes here of her own accord, and asks admission into this Union. This ground of objection cannot be maintained in this age of the world, before the people of this country, and, I may add, the people of Christendom.

One hundred thousand American citizens on the shores of the Pacific are, or might be, so far as depends upon our action, in an entire state of anarchy. Three sessions of Congress have intervened since these new territories came under the jurisdiction of the United States, and you have not legislated for them in a single instance, except to make provision for the collection of revenue at their ports. All other duties, devolving upon you as legislators for the entire Union, have been totally neglected. You have used them only for the purpose of collecting taxes from them. Are we, sir, to be told, in the middle of the nineteenth century, that these people, under such circumstances, have no right to form a government? No man can stand up here, and assert this doctrine, and expect to receive the support of the people of this country. My friend from Illinois [Mr. Douglas] correctly said, that the right of government—of some kind of government—was a right inherent in all people upon the face of the earth, and that the establishment of civil and social order was among the first necessities of men, entering into civil society. Without government, they cannot exist; and you have provided no government for the people of California, and it is now contended, that they have no right to provide one for themselves. You have neglected your own duty toward them for the last three sessions, and now, when they come here acknowledging your jurisdiction, and with a constitution in their hands,

you are about to send them back to the shores of the Pacific, to enter into a territorial condition, and to return again at some future time as suppliants for your favor. They love the Union; they have felt its blessings, and desire to secure them to themselves and their posterity. They will have no other standard to wave in the breezes of the Pacific, on their coast, but the standard of their fathers—the stars and stripes of their country. Would to God, that this feeling prevailed with equal intensity at the centre of the Republic, as it prevails at its distant extremity! While they wish to come in, there are those who wish to go out. It is consoling to find, that the patriotic ardor of our countrymen does not diminish, as they recede from the older portions of the Republic. I repeat, they come here, not as revolutionists, but as an integral part of our great community, asking admittance into the Confederacy.

Mr. KING, (in his seat.) Who is it that prevents them?

Mr. CASS. The Senator from Alabama inquires who it is that has prevented them from having a government, and I answer it is the Congress of the United States; and in saying this, I take the blame myself, as one of its members.

Mr. DOWNS. The Wilmot proviso prevents them.

Mr. CASS. I am speaking of the cause of our neglect—the Wilmot proviso is another thing. I am not examining what differences of opinion may have prevented our action. I am speaking of our neglect, and of its effect upon the people of California, and of their justification in forming a State government. What has the Wilmot proviso, or any other difference of opinion here, to do with them? They would still have remained without a government had they not taken their own cause into their own hands, and done for themselves, what we ought to have done for them. Are they to be deprived of social organization, and of all the elements of social order—I may add, of existence, and to be treated by us with contumely and mockery, under the pretence, that we can do nothing for them, because some one thinks proper to introduce the Wilmot proviso into our legislative proceedings?

Mr. DOWNS. Does not the gentleman know, that that is the only reason?

Mr. CASS. To be sure; gentlemen would not have voted for a territorial government clogged with the Wilmot proviso. I would not do it myself. But the great fact still remains. It is our fault that they have no government—it is not theirs; and it is because that question has divided you, and prevented you from doing your duty, that they appear here to-day, and ask justice at your hands.

Mr. FOOTE. Will the Senator bear with me?

Mr. CASS. With pleasure.

Mr. FOOTE I presume the Senator does not wish to do injustice to any one; but he knows well that what may properly be called the Walker amendment was prevented from being adopted, according to his own account, by the Senator from New York.

Mr. CASS. If any gentleman supposes I had the slightest idea of casting censure upon one human being, he is utterly mistaken; such a sentiment never occurred to me. I was speaking of the Congress of the United States, and of the duties they had to perform and had neglected to perform, and did not intend to reflect the slightest censure upon any gentleman, North, South, East, or West, much less to arraign their motives. I was speaking of the relation, which existed between this Government and the people of California, which has justified, in my opinion, the course they have taken.

Mr. BUTLER. Will the honorable Senator allow me to ask him a question?

Mr. CASS. Certainly.

Mr. BUTLER. Do I understand the honorable Senator now to say, that it was the duty of Congress to have provided a competent government for these territories?

Mr. CASS. There are two positions I have always maintained, with reference to this subject—first, that Congress, under the Constitution, has no right to establish governments for the territories; secondly, that under no circumstances have they the right to pass any law to regulate the internal affairs of the people inhabiting them. The first may be a matter of necessity; and when the necessity exists, if a Senator votes for it, he votes upon his own responsibility to his constituents. If they believe the necessity and support him, he is safe, but if not, he must fall. If I had voted under such circumstances, I must have looked to my constituents for my justification; but under no circumstances could I have voted for any law interfering with the internal concerns of the people of a territory. No necessity requires it; there is no necessity which would justify it.

Mr. CHASE. Will the Senator allow me to ask him a question?

Mr. CASS. Certainly; I stand ready to be catechised all day on this subject, if Senators desire it.

Mr. CHASE. Did I understand the Senator, as saying that, in voting for a bill to establish a government in the territories, he would assume the exercise of any authority not given in the Constitution?

Mr. CASS. The honorable Senator will undoubtedly recollect, that in a historical document called the Nicholson letter, which subsequent circumstances have made somewhat important, I distinctly stated my views upon this subject, and those views have remained unchanged to the present hour,—I maintained, that no power is given by the Constitution to establish territorial governments, but that where an imperious necessity exists for such a measure, the legislator, who yields to it, must look to his constituents for his justification.

Mr. CHASE. I understood the Senator to say, that there was no such authority given by the Constitution?

Mr. CASS. I said, that if we do an act not authorized by the Constitution, under a pressure of necessity, that act must be done upon our own responsibility; and I refer the gentleman to the authority of Mr. Madison, who justified the action of the Congress of the Confederation, on the subject of territories, upon this ground—and upon this alone. If the gentleman will take the trouble to look at my speech on the Wilmot proviso, he will find my views on this point distinctly laid down. What is the objection in principle to the admission of California? Allow me to say, that great political rights and move-

ments, in this age of the world, are not to be determined by mere abstract or speculative opinions. There is no want of heavy books in the world, which treat of political science; but you need not go to them to ascertain the rights of men—either individuals or in communities; if you do, you will lose yourself groping in a labyrinth, where no man can follow you. If there are rights of sovereignty, there may be wrongs of sovereignty; and this truth should be held in everlasting remembrance. And this is the case with regard to California. We have rights, and we have duties; and if the former are sacred, the latter should be sacred also. One of these duties we have neglected to perform; and we are told by gentlemen, who have spoken here, that when a State wishes admission into the Union, she should come to the door of Congress and knock for admission. California has thus come, and knocked; but no door is opened to her, and she is to be told, "Go back and wait till we are ready. There is but one door through which you can enter, and that door we keep shut. You must pass through a territorial government; but that government we have neglected to give you, and we are probably as far from establishing it as ever." And such is the paternal regard we manifest toward one hundred thousand American citizens, who are upholding the flag of our country on the distant shores of the Pacific. A good deal has been said about precedents: I am not going to examine either their application or authority, though it has been pretty clearly shown by others, that they fully justify this measure of admission.

Great political measures must be judged by themselves. When new and imposing circumstances dictate an unusual course, they furnish the justification for action, and they furnish also a precedent for future proceedings; and whether such cases as this are to be found in our legislative history, our duty is still the same. That duty imperiously requires the admission of California into our Union. She comes and asks admission—not, as the honorable Senator from Illinois says, in language of equal force and beauty—not to reject your sovereignty, but because her citizens love their native country, know the value of our institutions, and desire to become bone of our bone, and flesh of our flesh. They come, I repeat, not as revolutionists, but as petitioners, asking the greatest favor we can bestow upon them. The distinguished Senator from South Carolina has objected, that we can only admit a State into our Confederacy, and that California is not a State. Well, sir, in my opinion it is a State, and as truly so as any existing under the sun. The honorable Senator from Maine asked the very emphatic question, What constitutes a State? And his answer will find a responsive cord in the heart of every American. He said with truth that it is men who make a State. They do, sir. It is not land, nor trees, nor gold mines; but it is men, by whom and for whom States are constituted and maintained. Why, sir, any other doctrine would carry us back to the worst portion of the middle ages, when Governments were instituted for the protection of the few, and men without property were men without rights. Doctor Franklin, with his native good sense—and, I may add, his native good humor—rebuked this principle of legislation in a manner far more significantly than could have been done by the most labored argument. He said that a certain amount of property is necessary to entitle a man to a vote. He possesses a jackass to-day of the requisite value, and can exercise this right. To-morrow the jackass dies, and he loses it. To whom does the right belong—to the man or the jackass?

[Here Mr. Butler said something in a tone inaudible to the reporter, to which Mr. Cass replied, I go for the man, and not for the jackass.]

But, Mr. President, there are other considerations, which seem to me forcibly to urge the admission of California. The Senator from Illinois truly said, that the pride of opinion is strong in the human breast, and that it belongs as well to communities as to individuals. The Wilmot proviso is offensive—justly offensive—to the southern section of the Confederacy—offensive, independently of its practical consequences. It is considered an arbitrary assumption of power, and is, therefore, resisted, agreeably to the established laws of human nature. We oppose instinctively all improper assumptions of authority over us, without stopping to inquire into the pecuniary value they may affect. No man is willing to have a measure forced upon him. Now, the people of California have been driven by necessity to take this matter into their own hands. They have decided the question for themselves. There is no offence to the pride of the South or of the North. There is no invidious Wilmot proviso to be passed, north or south of 36° 30′. There is no pride of opinion involved, and no overbearing act of one portion of the country against the other; and therefore the admission of California removes much of the present controversy in a manner that spares the feelings of all.

I regret, sir, that the Senator from South Carolina is not present, as I desired to extend my remarks further than I shall now do. I have already said, that the speech of that honorable Senator inevitably leads us to the conclusion, that upon the admission of California depends, in his opinion, the dissolution of the Union. He likewise contended that an amendment to the Constitution was indispensable, and his remarks on yesterday seemed to connect the fate of the country with the accomplishment of this object.

Mr. DOWNS. The Senator from Michigan states that the Senator from South Carolina remarked, in his speech, that this amendment was indispensable. Now, I may have misunderstood his words, but certainly I think he only said that it was desirable.

Mr. CASS. I do not desire to exchange words upon this point, and have not the slightest disposition to provoke debate upon it. In order to satisfy the Senator from Louisiana, I will read the Senator's own words:

"The North has only to will it to accomplish it; to do justice by conceding to the South an equal right in the acquired territory, and to do her duty by causing her stipulations, relative to fugitive slaves, to be faithfully fulfilled; in cease the agitation of the slave question; and to provide for the insertion of a provision in the Constitution, by an amendment, which will restore to the South, in substance, the power she possessed of protecting herself before the equilibrium between the sections was destroyed by the action of this Government. There will be no difficulty in devising such a provision, one that will protect the South, and which at the same time will improve and strengthen the Government, instead of impairing and weakening it. But will the North agree to do this? It is for her to answer this question. But I will say she cannot refuse, if she has half the love of the Union which she professes to have, or without justly exposing

herself to the charge, that her love of power and aggrandizement is far greater than her love of the Union. At all events, the responsibility of saving the Union rests on the North, and not on the South. The South cannot save it by any act of hers, and the North may save it without any sacrifice whatever, unless to do justice, and to perform her duties under the Constitution, should be regarded by her as a sacrifice. It is time, Senators, that there should be an open and manly avowal on all sides, as to what is intended to be done. If the question is not now settled, it is uncertain whether it ever can hereafter be; and we, as the representatives of the States of this Union, regarded as governments, should come to a distinct understanding as to our respective views, in order to ascertain whether the great questions at issue can be settled or not. If you, who represent the stronger portion cannot agree to settle them on the broad principle of justice and duty, say so, and let the States we both represent, agree to separate and part in peace."

I have not another word to say, Mr. President. If these remarks do not justify the conclusion I have drawn from them, I do not know what can.

Mr. DOWNS. Do I understand the Senator as saying that he understood the Senator from South Carolina as asserting that the amendment should be made now?

Mr. CASS. The Senator from South Carolina, in the explanation he gave us, said he did not require it to be done now, but that it was indispensable that it should be done. Am I not right?

Mr. FOOTE. The Senator from South Carolina said, I believe, that it would be indispensable ultimately. That, I think, was the word he used.

Mr. BUTLER. I know it may be expected that I should be able to indicate what are the precise opinions of my colleague, but I have, in reality, no more knowledge of his views, than is, or may be, in the possession of any Senator; but I did understand him distinctly to say, so far as I can infer from other sources—I believe it is his opinion—that when the northern States shall have acquired such a predominating influence in the councils of the nation, that there shall be no security for the South against their abuse of power, that then there should be inserted in the Constitution some provision by which the minority shall have it in their power to avoid becoming a despised and degraded minority. Sir, that is his idea; and I will say in this connection—and I endorse his view to this extent—that I do not see that we have any security in the forbearance of a northern majority. I am free to say that I do not feel security from that source, because, when I hear one gentleman say that he holds to one part of the Constitution and disregards another, according to his conscience, and others come in and say that they will break it down, so far as they understand its provisions, what security have we for the preservation of our rights, unless we have something to rely upon by way of a veto?

My colleague has not intimated that the Union may not continue for many years to come; but what sort of Union is it, by which we are bound together, when the elements of strife are introduced here every day? He has always adhered to the Union, and he wishes to restore to it the elements of its prosperity, by producing harmony and conciliation; and they are attained by the North doing justice and conceding to the South an equal right in the acquired territory, by complying with the requisitions of the Constitution in relation to the delivery of fugitive slaves, and by ceasing the agitation of the slave question, and by providing for the insertion of some provision in the Constitution which will give to the South some security that her rights will be respected.

Mr. DOWNS. With the permission of the honorable Senator, I will state that I believe it was not understood, without going minutely into the views expressed by the Senator from South Carolina, that I believe he was not understood by southern members of this body generally in the sense in which the honorable Senator from Michigan understood him. I certainly did not so understand him, and I am not aware that any southern Senator did.

Mr. FOOTE. I understand now, from the explanation that has been given by the colleague of the honorable Senator from South Carolina, that it is the opinion of both these gentlemen that an amendment to the Constitution is indispensable. Does the Senator from Louisiana doubt that such is their opinion?

Mr. DOWNS. I did not so understand the gentleman.

Mr. FOOTE. The Senator from South Carolina said there should be such a provision in the Constitution as would amount to a veto power in favor of the minority.

Mr. CASS. Gentlemen will remember that my time is very limited.

Mr. DOWNS. I trust the Senator will allow me to finish the sentence that I have commenced. Without going into a minute analysis of the speech of the honorable Senator from South Carolina, I say now that I did not put the construction upon it which is put by the honorable Senator from Michigan, and I believe that southern Senators generally did not.

Mr. BORLAND. As one southern Senator, I will say that I did not.

Mr. DOWNS. I know of none that did.

Mr. RUSK. Will the honorable Senator from Michigan allow me simply to say, that I hope the Senator from Louisiana will not make a construction, or assume to speak for the entire South. We are all here. I do not choose that the Senator shall make a construction for me—that I can do for myself. I do not choose to enter upon that matter now. I have not investigated the subject; but I hope the Senator will not assume to speak for the whole South.

Mr. DOWNS. I do not intend to speak for anybody but myself; but, so far as I know, or have heard, the view that I have stated is that taken by the whole South.

Mr. FOOTE. I hope the Senator from Michigan will permit me to add a single word. I know that the construction which I placed upon the honorable Senator's remark, is the construction that was given to it by nearly all the southern members of this body. I could give their names, if necessary. I have said so before, and my word is not to be disputed by any body.

Mr. DOWNS. I did not dispute the assertion of the honorable Senator; but I have a right to speak for myself. I have not conversed with the Senator from Texas, nor with any other Senator, in regard to it. I do not make it a business to do so; but I hear what Senators say to me, and I now say again, that the Senator from Mississippi, up to this time, is the first Senator who has put the construction that is now contended for, upon the speech of the distinguished Senator from South Carolina. I speak of what I know. It is true, I

may be mistaken; but I do not coincide in that construction, and I believe there are many from the South who do not.

Mr. CASS. May I be permitted to say that I must request Senators no longer to interrupt me. I hope I shall be allowed to go on, as my time is short, and I will finish what I have to say in a very few minutes. I am generally quite accommodating, but upon this occasion I must insist that there be no more interruptions.

I am not going to dwell upon this point of construction. God knows I have not the slightest wish to misrepresent the opinions or the objects of the Senator. I have only to say, that any man, who reads the speech, must come to the same conclusion, that, in the opinion of the Senator, the dissolution of the Union, if not altogether, was almost inevitable. When I alluded to this subject yesterday, saying that, agreeably to the views of the Senator from South Carolina, if the amendment of the Constitution did not take place *now*, "it would (in his own words) be fatal to the country," the honorable Senator answered "certainly it will in the end." The Senator says expressly, in his speech, the amendment must be made *now*. Yesterday he explained, and I took his explanation with the greatest pleasure—that he conceives an amendment necessary to be made, but that he does not conceive it is necessary to be done *now*. That is all I have to say in regard to this matter. Immediate or remote, his amendment, I conceive impossible. What, then, is the avowed object of the Senator from South Carolina? He says he seeks to establish an equilibrium in this Government. I do not know precisely what is meant by an equilibrium in a Government. I do not know in what way legislation is to be exactly weighed or measured, with reference to the various sections or interests of the country. There has never been such a political expedient since the commencement of this Government, or indeed of any other—and there never can be. When the Government came into operation, there were six slave and seven non-slaveholding States. The majority, therefore, in this Senate was in proportion then what it is now. There was of course no sectional equality, and if a disposition had been felt to oppress the South, it could have been as easily indulged by the Northern statesmen at that day as at this; for if your equilibrium is not perfect, you have no security from this new contrived equipoise. If the majority is disposed to disregard all constitutional checks, and to oppress the minority, that can as well be done by a small preponderance in the legislature as by a larger one. The security now is just what it was, when the Constitution went from the hands of its framers.

But what kind of equilibrium could be established? Is every section of this country—North, South, East, and West—is every interest, manufacturing, agricultural, commercial, and mechanical, to be weighed each against the other? Is each to hold the Government in a state of equipoise? What it would become in such a case, while in nominal operation, no man can tell. We can all tell, however, what it would not do: it would leave its great functions unperformed, and would, ere long, die in the affections of the people, as it would be already dead to their interests. Who ever heard or dreamed of such a Government? I believe the Constitution was intended to provide for every interest; but each must be cultivated and protected, as the circumstances of the country may require, without the vain attempt at mathematical accuracy in the progress of public affairs.

In the days of Solomon it was said that there was nothing new under the sun; but I confess, that a perfect equilibrium, for all time and for all interests, be these interests greater or smaller, would be something new. There is a difference of opinion, respecting the constitutionality of the Wilmot proviso. The attempt to enforce it is not the result of any arbitrary disposition to injure the South, but arises from a belief that the measure is legal and salutary. These differences of construction are inseparable from human language; and he who expects to prepare a written constitution, carrying with it universal concurrence of opinion, in all its constructions, indulges a chimera, as wild as ever presented itself to any man, sleeping or waking. I ask, sir, when did the North seek to injure the South, or when did the South seek to injure the North, in the mere wantonness of oppression? This charge of sectional rivalry, I know, has been a fruitful theme of discussion among the political parties of the day, but it has no real foundation in the progress of our history. We have gone on, sir, increasing in power, in all the elements of prosperity, with a rapidity, unknown among the nations of the earth. The charge, indeed, is not new—it goes back to the days of Mr. Jefferson. When the aggressions of England required counteracting measures to be adopted by this country, non-intercourse, and the embargo, and finally war, were resorted to in defence of our rights and independence. At that time a powerful party in the eastern States desired to secede from the Union. They said then, as is said now, There is a sectional majority against us; they disregard our rights and destroy our interests; and we will go out from among them. There was not an argument used then, which is not used now; nor a measure proposed (except an *equilibrium*, which it had not entered into the heart of man to conceive) that is not now proposed. There are some of us yet here, who were living at that period, and participated in these events; and the younger generation well know, that these facts stand prominently forward in the history of their country.

Sir, the objection of the Senator from South Carolina is repeated here to-day by his colleague, and it amounts to this: that if you give power to a government, it may be abused. So it may; and I should like to see the Government where power cannot be abused. It would be another new thing under the sun. We may all suppose cases of extreme oppression, where a State would be justified before the world in resisting the acts of a majority, and in seceding from this Union or from any other. We can all suppose such a case; but sufficient unto the day is the evil thereof; and when that evil day comes, let those, who have the responsibility, act upon it, and decide for themselves and for their posterity. There has generally been a sound public opinion existing in our country. Wisdom and patriotism are found in the people, as well as in both Houses of Congress, and in the State Legislatures, whose influence is everywhere felt and appreciated; and these are salutary checks against the abuse of power. And we happily possess another institution—the Supreme Court—

which contributes its full share to the stability of our institutions. There are nine men, advanced in years, with neither the power of the sword nor of the purse, whose decisions are received with confidence, and obeyed with alacrity, from one end of this broad Republic to the other. It is an oasis in the desert of politics—a green spot for the eye to rest upon. It is a tribunal of which we may all be proud. There is none higher upon the face of the earth. By their ability, their dignity, their impartiality, their unimpeached probity, the judges have won the respect of their countrymen; and besides the performance of their judicial functions, they everywhere exert a salutary influence upon public opinion. It is refreshing to leave these chambers of discussion and dissension, and to enter the hall below us, and mark the tranquillity and wisdom, with which the high interests of the community are there considered and determined.

Sir, at the last session of that Court a sublime moral spectacle was presented, of which every American may justly be proud. One of the greatest States of this Union appeared at the bar and made itself a party, asking the Court to judge its cause, and to remove certain impediments to the navigation of the Ohio river, which were considered an injury by the Commonwealth of Pennsylvania. Yes, like an individual, that State asked the Court to sit in judgment upon the cause, and to do her justice. Who would witness such a spectacle, if this Union were dissolved? Differences like this would then be adjusted, not by reason, but by the strong hand. Another similar scene passed in the same place a short time since, when two States, members of this Confederacy, disputing about their boundaries, asked this court to decide between them; and the court did decide; and I understand the line they fixed, is now running by commissioners, armed only with a slip of paper, and through a country heretofore highly excited by this question, but now calm and satisfied, leaving the surveyors to perform their duty with as much safety, as if protected by all the force of the Republic. Such lines elsewhere are run by armies, and marked by the sword. Thus it will be seen that our Government has a mode of settling difficulties—a constitutional mode—that ought to command the assent of all.

I do not deny, that there may be great political cases where this court can have no jurisdiction. When such cases arise, I trust a peaceable remedy will be found for their adjustment. I leave that to time and events. It is one of our national characteristics to neglect our immediate advantages, and to look forward to some great calamity, which is to overtake us after the lapse of centuries.

The Senator from South Carolina [Mr. CALHOUN] has not stated the amendment, by which he proposes to secure the equilibrium of the Government. There are, however, two indications in his speech, which leave but little doubt as to the nature of the remedy, though its details must of course be conjecturat. He pointed out two difficulties in the operations of the Government, which it would be necessary to obviate:

First, that it claimed to use force in order to carry into effect the powers it felt authorized to exercise. Well, sir, what Government exists, or ever existed, which does not use force? Human beings are influenced by hope and fear, (I leave higher considerations out of view in this discussion,) and, as no Government is rich enough to buy obedience, it must compel it by force.

The second difficulty is, that the Government assumes to judge of the extent of its own powers. It does so, and necessarily; and so must every other Government, in a greater or less degree. I do not propose to enter into any argument upon this point, nor to investigate the course necessary to pursue in the event of collisions of opinion between the General and State Governments. That must be determined by events, as they arise. I merely allude to these topics briefly, in order, by ascertaining the evils supposed to exist by the Senator from South Carolina, to ascertain the nature of the remedy he is desirous of applying to them. He is seeking a constitutional remedy, which shall produce an equilibrium, by which the rights of every section and of every interest of the country can be preserved from aggression. The South is not the only section which is liable to oppression. There are also the East, the West, and the remote West, which may have the same cause of complaint; and the various interests I have already enumerated may, in like manner, each demand peculiar protection. There is to be some controlling principle within the Constitution, by which its operations may be regulated when these several sections or interests may consider their rights assailed or endangered; for I do not suppose the honorable Senator is so local in his views, as to propose a remedy, which shall not be applicable, under similar circumstances, to every portion of the country. And that remedy is an equilibrium, as it is called, which, when translated into English, means a plan by which a sectional minority may, at its pleasure, control or suspend the operations of the Government. I have already said, that the general plan is more easily ascertained, than the specific details. Well, sir, such an equilibrium, instead of being a balance-wheel, would be a check-wheel—it would turn the wrong way—it would stop the whole operations of the Government, placing it, in fact, under the control of a minority.

Now, sir, these minority Governments are not new in the world; they have existed since the institution of civil society, and will continue, I suppose, until it is terminated. There are many of them found in Europe, and in other quarters of the world. There is one at St. Petersburg, another at Constantinople, and another at Vienna; and these Governments take very good care of the rights of the minority; but I do not see the advantage of the plan, for I believe the rights of the majority are very little regarded—at any rate, such is the opinion of the Poles and of the Hungarians, and of many an oppressed people beside. It is all idle, sir, to talk of such a plan. Provide proper checks and limitations for all sections and interests as a just foresight may require; but after this is done by the Constitution, the Government must be conducted agreeably to the will of a majority, unless you choose to entrust your rights to a single man, and thus establish a despotism. That, I suppose, is the perfection of a minority Government. No intellect, however profound, can give plausibility to such a scheme, or obviate the insuperable difficultics, which would present themselves in any political organization, thus strangely constituted. The machine would stop by its own inherent arrangements. Such minorities would,

in fact, become majorities, controlling public affairs at their pleasure.

Mr. President, I will terminate my remarks as speedily as possible, and I trust the Senate will bear with me a little longer. There are one or two circumstances, alluded to by the Senator from South Carolina, which I desire to notice, and which appear to me not a little extraordinary. I hold in one hand the speech of the Senator from South Carolina, and in the other the speech of a gentleman from Pennsylvania, [Mr. STEVENS,] delivered the other day in the House of Representatives—a gentleman who, in all his opinions upon the subject before us, so far as we know, is directly the opposite of the Senator from South Carolina—ay, as far as the antipodes—as far asunder as the poles. *The bane and antidote are both before me.* The distinguished Senator from South Carolina says, in that speech, that this Government is one as absolute as that of the Autocrat of Russia. The expression is strong, and I will read it from the speech, so that I may not be accused of misrepresentation:

"What was once a constitutional Federal Republic, is now converted in reality into one as absolute as that of the Autocrat of Russia, and as despotic in its tendency as any absolute Government that ever existed."

Mr. BUTLER. Who says that?

Mr. CASS. Your colleague, the distinguished Senator from South Carolina.

Mr. BUTLER. I thought you were reading from another speech.

Mr. CASS. No, sir; from the speech of your colleague. He says, that this is the most despotic Government on the face of the earth. Well, sir, the Representative from Pennsylvania reiterates a similar sentiment, and speaks of this Government as a despotic one. All this shows how often extremes meet in this world; and it is not a little curious, that both these gentlemen, in the illustration of their views, refer to the Autocrat of Russia.

We lose all our confidence in the force of language, and in the authority of years and intellect, when such extravagant assertions are presented to us. Is there a man in this broad land, who does not know, and feel instinctively, that he is free? And yet he is told seriously—not in an extemporaneous debate, such as we are now engaged in, when no man should be held to a rigid accountability for his expressions—but in a prepared speech, written and printed before its delivery, and laid upon our tables immediately after—and I believe, sent through all parts of our country contemporaneously—we are told, I say, that this is the most despotic Government on the face of the earth! And who tells us so? One of the most distinguished men of this country—a man who has rendered her important services, and occupied high places in her councils, for more than one-third of a century—possessing the brightest intellect and unspotted integrity, and who has won a world-wide reputation! What will be thought and said of this in Europe—in republican Europe—in monarchical Europe? Why, sir, it is on its way to Siberia already. It will be transferred into every paper on the eastern continent, and even the Siberian will be admonished, that he lives under a paternal Government, far better than that despotic democracy, nicknamed the Pattern Republic, on the other shore of the Atlantic—thus characterized by one of its most renowned citizens and highest officers. All this does serious injury to the cause of freedom throughout the world. Out of our own mouths are we condemned. Let an American go to Europe, and if he come back, and does not say, that this is not the worst Government on earth—nay, if he does not say it is the best—let his countrymen distrust him. His head or heart is wrong—probably both. Another word, and I abandon this topic.

Mr. President, I am going to give one proof—one irrefragible proof, that will not be contradicted, and which, indeed, admits of no contradiction—that this, instead of being the most despotic, is the freest, Government in the world. I ask every one in the Senate chamber, actor or auditor, whether, under any other Government now in existence—be it a constitutional monarchy, an aristocracy, a democracy, or a despotism—if such a speech as that we heard from the Senator from South Carolina, could be delivered with impunity? That is the question I ask. Go to Europe, to Asia, to Africa, for an answer, if you need one. He who should make such an experiment in St. Petersburg, would find himself on the road to Siberia in half an hour; and in Constantinople, he would find the bow-string around his neck in the same time; and in Vienna he would soon be immured in one of those dungeons, deep, dark, and damp, where the fires of life and liberty have been so often extinguished together. In England, it would send him to Australia, where many a good man has been transported for language less significant. There is not another country on the face of the earth, where a man could make such a speech with impunity. I thank God, that this is so, and that a man may say here what he pleases, and as he pleases. He may assail the Government with perfect safety, its principles, its practices, and its tendencies; and there is no one to make him afraid. All this but provokes investigation, and the more our institutions are investigated, the stronger will they become in the hearts of the people, who will continue to love the Government, which has given them a greater measure of prosperity, than any other people ever enjoyed, and will support and defend it against all assaults. Such sentiments never struck my ear before in this high place, and I trust I may never hear them again.

There is another subject, to which I must allude. Almost at the time the Senator from South Carolina was endeavoring to show how the North had injured and oppressed the South, and how the Government, or rather the majority, had gone on to assume despotic power—almost at that very time, a distinguished member from Virginia, in the House of Representatives, [Mr. MEADE,] was placing in singular contrast, the authority, which the South had gained and exercised over the Government of the country.

"*Though we have been in a numerical minority in the Union for fifty years, yet, during the greater part of that period, we have managed to control the destinies of the Union.* Whether on the battle-field, or in the council, the sons of the South have taken the lead; and the records of the nation afford ample testimony of their *superior energy and genius.*"

Well, sir, put this and this together, and then see who is right. I state the facts. I leave these gentlemen to settle their own controversy. I do not deny—no man is more ready than I am to acknowledge—the obligations we owe to the South, to

Washington, to Jefferson, to Madison, to Monroe, to Jackson, and to the distinguished men the South has sent here to preside over the Executive department of the Government, or to assist in its operations. They have won imperishable fame for themselves, and imperishable honor for their country. I accord to them the full meed of praise, for I have no sectional feeling to interfere with my sense of justice, and I love the South as the North or West. I have been so much of a wanderer, during my life, that sectional feeling is absorbed in a general one, and I love my country, and my whole country, with equal ardor. Abroad, it is the name of American, which inspires honor and confidence, and not the name of Virginian, or Pennsylvanian, or any other less eminent in our country. I repeat, that southern statesmen, when conducting our affairs, have conducted them with ability and success; and the best proof of this is the prosperity we enjoy, and the proud eminence we have attained.

I desire to refer to another fact. The distinguished Senator from South Carolina speaks of the disastrous effects of the Union upon the material interests of the South, while the Senator from Louisiana [Mr. Downs] endeavored to prove, the other day, that in all the elements of prosperity the South were better off than the North. Let any man, who will, reconcile these differences—if he can. It is an effort I shall not undertake. I think it proves to the satisfaction of every moderate man, that the whole matter is greatly exaggerated, and that expressions are used, and facts assembled together—sometimes indeed in an imposing form—which furnish no justification for the serious conclusions presented to the country. But, sir, instead of depreciating one section and exalting another, let us all join together to thank that God, who enabled our fathers to assert their rights, and who, we may humbly hope, will enable their sons, if they are not struck by judicial blindness, to maintain them, and to transmit them, unimpaired, to their posterity.

Mr. DAVIS, of Mississippi. I understand that the honorable Senator from Michigan expressed a wish to ask me a question.

Mr. CASS. Yes, sir. I wished to ask the honorable Senator from Mississippi if he would vote for the Missouri compromise?

Mr. DAVIS, of Mississippi. I will answer the Senator from Michigan with great pleasure. I have stated on several occasions that I would take the Missouri compromise. This I have said deliberately and decidedly, on several occasions, and explained at some length in a recent speech on the resolutions of the Senator from Kentucky. I have stated that I considered it as an ultimatum, less than I believed to be the rights of the South, but which I would accept, to stop the agitation which now disturbs and endangers the Union.

Mr. CASS. As I had a conversation with the Senator on this subject in the morning, I supposed he understood the precise object I had in view. As this, however, appears not to be the case, I will ask him if he would accept the Missouri compromise, as it was regulated by the statute providing for the admission of Missouri into the Union?

Mr. DAVIS, of Mississippi. I understood the Senator, in a conversation this morning, to make that inquiry. I then told him that I would not. I now answer before the Senate, No. To meet this inquiry, I waited in the Senate chamber, expecting that he would, at the expiration of the morning hour, address the Senate; but, as he did not, I left here, (when the Senator from Illinois was addressing the Senate,) to answer a summons to see a sick friend. I returned a few minutes, as I was informed, after the Senator from Michigan commenced his address, and learned that he had signified a wish to ask me a question. It seemed to me proper to remind him, at the close of his remarks, of the wish he had announced. I now answer his question in its modified form. I would not take the terms of the Missouri act, but would accept its spirit if presented in terms applicable to this case. When I spoke of the Missouri compromise, I spoke of it as an arrangement by which the territory was divided between the slaveholding and the non-slaveholding interests; I spoke in reference to the result—the intent of that compromise—which gave to each a portion. I have always been ready to rebuke that mean spirit that would evade its true meaning by a delusive adherence to its words.

I would not take the compromise in the terms by which it was applied to the remaining part of the territory acquired under the name of Louisiana. I would not take it as applied to Texas, when that State was admitted into the Union, because the circumstances of both were different from those of the Mexican territory; but I would take it, if made applicable to the existing case, and extended to the Pacific. I considered that, when the Senate had yesterday voted to receive petitions and to refer them to committees, to consider upon the power of this Government over slavery in the territories, over slavery in the District of Columbia, and over the future admission of slave States, we had taken one great step in advance, and one which should awaken the apprehension of the South; and when, in close connection with this action of the Senate, followed the remark of the honorable Senator from Michigan, that the Missouri compromise could not be extended to the recent acquisitions from Mexico, I looked upon it as a conjunction in our political firmament, which boded evil to those likely to be destroyed by the joint attraction of these planets. It was therefore that I spoke of the declaration as a thing to be noted—marked as the forcshadow of an event. If we are not to have non-intervention, the right to go into these territories and there claim whatever may be decided to be ours by the decree of nature—if we are to be debarred from acquiring—by emigration, by enterprise, by adventure, by toil, and labor—equally with others, from the common domain of the Union—if we are to be forbidden to use the commons belonging to the common field, of which we are joint owners—if, in addition to all this, we are told that no division can be made—that all of that which we owe in common must finally become the exclusive property of the other partners—in truth, sir, we are rapidly approaching to that state of things contemplated by the Senator from South Carolina, [Mr. Calhoun,] when, without an amendment of the Constitution, the rights of the minority will be held at the mercy of the majority. Give us our rights under the Constitution—the Constitution fairly construed—and we are content to take our chance, as our fathers did, for the maintenance of position in the Union. We are content to hold on to the old compact; and, as we believe in the

merits of our own institutions, we are willing to trust to time and fair opportunity for the working out of our own salvation. If we are to be excluded, by Congressional legislation, from joint possession on the one hand, and denied every compromise which, by division, would give us a share on the other—neither permitted to an equality of possession as a right, nor a divided occupation as a settlement, between proprietors—I ask what is the hope which remains to those who are already in a minority in this Confederacy? What do we gain by having a written Constitution, if sectional pride or sectional hate can bend it, as passion, or interest, or caprice may dictate? What do we gain by having a Government, based upon this written Constitution, if, in truth, the rights of the minority are held in abeyance to the will of the majority? And now, I ask the Senator from Michigan a question: Will he not, under the crisis which hangs upon the fate of the country—will he not support the Missouri compromise—the spirit of the compromise—for a division of the territories between the two interests of the Confederacy?

Mr. CASS. I will answer the Senator. I spoke of the Missouri compromise, which established a line that ran through a country, in which slavery existed, and which declared that slavery should be excluded north of that line, and left the country south of it, as it found it, to continue slavery or to exclude it, as the people might judge best. I say that my doctrine for the whole territory is non-intervention.

Mr. DAVIS, (in his seat.) I prefer that, too.

Mr. CASS. I agree, therefore, with the Senator from Mississippi. I say that this Government has no right to interfere with the institution of slavery in the territories; and I say, if the South think they have rights there under the Constitution, in God's name, let the Supreme Court determine the question. No one can object to that.

Mr. DAVIS, (in his seat.) But we cannot get there.

Mr. CASS. I do not know that. I think otherwise. I would observe, and the Senate will remember, that the point in issue was the Missouri compromise; and now I understand the Senator from Mississippi would not vote for that measure, unless it was accompanied with the declaration that slavery should, or may, or does, exist south of the line. Do I understand him aright?

Mr. DAVIS, of Mississippi. I have several times had occasion to explain that point, which has been attacked by gentlemen of the North as an inadmissible claim. I will agree to the drawing of the line 36° 30′ through the territories acquired from Mexico, with this condition, that in the same degree as slavery is prohibited north of that line, it shall be permitted to enter south of the line; and that the States which may be admitted into the Union shall come in under such constitutions as they think proper to form.

Mr. CASS. With respect to the last point, I imagine there would be no difference between us. With respect to the other, the proposition is intervention north, and non-intervention south of the line, without conferring any rights on the South. It would be of no practical utility whatever to that section of country, unless accompanied by some legislative declaration on the subject. I repeat the belief, that we have no authority to say that slavery shall or shall not exist in the territories of the United States. It is a matter to be left wholly to the people of the country to decide. That is, I think, the true doctrine. I have ever maintained it, and unless I change greatly, I shall abide by it.

Mr. DAVIS, of Mississippi. The Senator does not exactly comprehend my meaning. He and I do not differ much as to the powers of Congress over the territories. The difference between the honorable Senator and myself seems to begin just where he ceases to answer. I say that if we cannot be permitted, free from Congressional interference, to go into these territories, and test our rights, and opportunities under the Constitution and by the law of nature, and before the Supreme Court of the United States, shall this agitation continue—shall this sectional strife be unassuaged? Will not the Senator, like myself, come down in this stage of the question, and take less than his own standard—take the Missouri compromise in terms adapted to these territories?

Mr. CASS. What I would not do to save this Union from dissolution, if dissolution were impending over it, and to be averted only by one course of action, it is difficult to say. I would do almost anything.

I desire to advert to another topic, and that is, one relating personally to myself. I need not remind the Senate, that within a short time I have passed through a very severe ordeal for any reasonable man. I said, and I said truly, when the Senator from Kentucky remarked, a few days since, he was the best abused man in the country, that he was so with one exception. That exception my modesty prevents me from naming. During that campaign I was silent, and left the falsehoods which in this country seem to belong to such a contest, to serve out their purposes, and then to die; but when these things are resuscitated and repeated here, or in the other branch of the National Legislature, I choose to defend myself. I am not now in a position which precludes me from the exercise of that right, and I will exercise it, in my place, when the nature of the assault, or the standing of the assailant, may render this necessary. I owe this duty to my constituents, by whose favor I am here, not less than to myself. A gentleman from North Carolina [Mr. STANLY] said, in the House of Representatives a few days since, that "Taylor beat Cass, who thanked God he never owned a slave," &c. I never said this; it is one of the unfounded stories, whose functions having been fulfilled, is thus suddenly called from its resting-place, for some purpose, I know not what. It is an expression I never used—it conveys a meaning I utterly disavow. I do not arraign the motives of the gentleman who has thus arraigned me; he had heard the story, and, I presume, believed it; but he should have ascertained the facts, before he thus summoned me—not in the heat of an excited contest, but in the cool hours of legislation—to the bar of the House of Representatives, and, in effect, to the bar of the country. The charge, sir, places me in the position of a Pharisee, thanking God that I am better than the men of the South, and free from offences, which they commit. All this is as contrary to my feelings, as to my habits. I cast no reflections upon the South then, or at any other time.

What I said and did, I will now state, and if a single Senator on this floor will condemn my

course, I will then confess, that this charge is not as wholly groundless as it appears to me.

While I was in France, it is well known that Great Britain had formed a plan, by which she intended to gain the command of the seas. There is no secret about this now, and it has been openly avowed. Her object was, under the pretext of putting an end to the slave-trade, to board our vessels, which would have been followed by the imprisonment of our seamen, and other acts of aggression, incident to her naval superiority. My friend, Mr. Stevenson, was then our representative in London. It is the first and great duty of an American minister abroad, when the rights of his country are assailed, to assert and defend them. Mr. Stevenson did so in an able and fearless manner, in a correspondence marked with signal ability. During the progress of the controversy, the public mind in England became much excited, and there was a strong effort made to connect the continuance of the slave-trade with the condition of slavery in our country, as though the former were essential to the latter. All the tirades against slavery, we sometimes hear at home, were poured out there.

The Senator from Massachusetts, in his eloquent speech the other day, spoke of a Congressional and an American vocabulary; but I can tell him there is such a thing as an English and a Parliamentary vocabulary, and I have never heard a worse one, when circumstances call it out, on this side of Billingsgate. Well, sir, my friend Mr. Stevenson received his full share of these choice compliments. What was said? Why, that he was a slaveholder and a slavebreeder, and therefore his testimony was discredited and worthless; that he was an interested witness, and not to be believed; and all this produced its effect upon the excited temperament of the English people. When it came to my turn to take part in the defence of my country, I explained my views in a pamphlet, from which I will read an extract:

"As to the *status* of slavery itself, it were idle to contend it is illegal by the common consent of mankind. It has existed since the earliest ages of the world, and there is probably no nation, ancient or modern, among whom it has not been known. By some it has been abolished, and where it yet survives, we hope its condition has been meliorated. This is certainly true of the United States. A general disposition is gaining ground to improve the situation of this unfortunate class of society. This is felt in the southern States of the American Confederacy, as well as elsewhere, and he who should judge of the treatment of the slaves in that region, by their treatment in the West India colonies, would do the southern planter egregious injustice. * * *

"We are no slaveholder—we never have been—we never shall be. We deprecate its existence in principle, and pray for its abolition everywhere, where this can be effected justly, and peaceably, and safely for both parties. But we would not carry fire, and devastation, and murder, and ruin, into a peaceful community, to push on the accomplishment of the object. But, after having visited the three quarters of the old continent, we say, before God and the world, that we have seen far more, and more frightful misery, since we landed in Europe—and we have not visited Ireland yet—than we have seen among this class of people in the United States. Whatever may be said, there is much of the patriarchal relation between the southern planter and the slave. And as to the physical distress, which is seen in Europe, resulting from a want of food, and from exposure to a rigorous winter, without adequate clothing, we believe it to be so rare as not to form a just element in the consideration of this matter. But the subject of the emancipation of two millions and a half of human beings, living among another population, of different race and color, and with different habits and feelings, is one of the gravest questions which can be submitted to society to solve. It can be safely left only to those, who are to be so seriously affected by it; and there it is left by the Constitution of the United States. It is a matter with which the General Government has no concern."

There is the testimony, which I bore to the condition of American slavery while in Europe, and for which I am now condemned in the House of Representatives. Why did I speak thus? For the purpose of showing, that I was a disinterested witness, and that my statements were not subject to the suspicions attempted to be cast upon Mr. Stevenson. Here I close my extract, and my defence, and leave gentlemen from the South to assail me for my assault upon that section of our common country and its institutions.

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SPEECH

OF

HON. H. L. TURNEY, OF TENNESSEE,

ON THE PROPOSITION

TO ADMIT CALIFORNIA AS A STATE INTO THE UNION.

DELIVERED

IN THE SENATE OF THE UNITED STATES, MARCH 12, 1850.

WASHINGTON:
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.
1850.

THE TERRITORIAL QUESTION.

The Senate having under consideration the Message of the President of the United States, transmiting the Constitution of California,

Mr. TURNEY said:

Mr. PRESIDENT: The Government under which we live, when formed, was based upon the fundamental principle of equality of the various States which formed it, and of the people of the States. The Constitution could never have been adopted by a majority of the members of the Convention by which it was framed, without the full recognition of that principle; and if it had been adopted by the Convention, it would never have been ratified and approved by the respective States acting in their several State sovereignties through the State conventions to which the Constitution was submitted.

In that Constitution, we find that slavery is recognized for political purposes, and that slaves are regarded by it as property. We find that, in apportioning representation, the Constitution takes notice of that class of population, and reckons them as slaves. We find that, in apportioning direct taxation, it again takes notice of slaves, and regards them as property. In another provision of the Constitution, we find that the subjects of this institution are regarded as property, and that the enjoyment of it is guarantied to the citizens of the United States, owners and proprietors of it.

I hold, then, under these several provisions of the Constitution of the United States, that slavery exists, and that it exists by the Constitution of the United States itself, in all the States and territories of the Union, except in those States only where it is forbidden expressly by State constitutions, in the exercise of State sovereignty. And, while I hold that this Government has the right and power to prescribe goverument and laws for territories, I am prepared to maintain that those governments for the territories must be under, and in accordance with, the Constitution of the United States, and that consequently Congress cannot restrict or abolish slavery in such territories. It is immaterial for my purpose to inquire from what source the power to organize and control territorial governments is derived—whether under the treaty-making power or any other—whether it be an implied or an express power. In any event, Congress derives her authority over the territories from the Constitution, and must exercise that power only in accordance with the Constitution, in its letter and spirit. If this were not true, Mr. President—if Congress could prescribe any form of government she might choose for the territories, irrespective of the Constitution of the United State—in other words, if Congress were not amenable to any authority herself, in organizing the territories, Congress might establish a religion, and might establish an order of nobility—Congress might establish a monarchy in the territories. What is there to prohibit it, if the Constitution does not govern in the territories, by governing the action of Congress over them? What would prohibit Congress from establishing any possible form of government that may be conceived? If Congress is not bound by the Constitution in giving government and law to the territories, but has an unlimited and unrestrained power, then Congress, in that view, would have the power to establish a monarchical government; and when a majority should deem it expedient to perpetuate their power, they would repeal the laws admitting States into the Union, and remand the States into territorial governments. And thus, under this pretence of power, and this mode of usurpation, they would establish upon the ruins of this Republic one great, consolidated, despotic form of government, by which all the rights, immunities, and privileges, secured by the Constitution, would be trampled under foot, and lost to the people forever.

Again: if Congress is not bound by the Constitution, or, in other words, if the power to enact and enforce the Wilmot proviso in territories formed by this Government, exists in Congress, then, let me ask, where do you find protection for fugitive slaves who may find their way into the territories? If such power exists, that provision of the Constitution which relates to the recapture of fugitive slaves is nugatory, so far as the territories are concerned.

In that case, Congress does possess the power to exclude slavery from the territories—a power which is provided in the Constitution. Congress does possess the power, by the Constitution, to abolish all slavery there; so that the moment a slave crosses the line, and goes into a territory of the United States, containing such a law with such provisions, he would be absolutely free, notwithstanding it is manifest to all, that the compromises of the Constitution contemplate no such thing.

On the contrary, the framers of the Constitution intended to provide ample means for the security of the owner in the enjoyment of his property. If, then, the framers of this instrument had not believed nor intended that Congress should possess no power over the subject of slavery in the territories, they would have made an express provision for the recovery of fugitive slaves escaping into the territories, as well as into the States.

But, Mr. President, the error, in my judgment, consists in gentlemen supposing that the power to govern, implies the power to abolish or to destroy vested rights under the Constitution. I hold that, under the Constitution of the United States, a man has a vested right to his slave as his property, and a legal title vested in him under, and by virtue of, the Constitution and laws of the country; that that right can be carried into any portion of the United States, where it is not prohibited by the local laws; and that the framers of the Constitution did not intend that Congress should have the power to exclude it from the territories, or from the district in which the General Government should be located, and over which Congress should have the power of legislation. The power to govern, then, is the power to protect the citizen in the enjoyment of his rights, in the enjoyment of his property, as well as of his "life, liberty, and pursuit of happiness." And it is not a power to enable him to abolish and destroy these vested rights; nor would Congress possess any greater power to destroy these rights in the territories, than in any State of the Union where slavery exists, if the legislature of that State could have any such power. I presume it is not contended by any one. The State constitution recognizes the institution of slavery. No one pretends to destroy the institution—it must be done by a convention of the people. The power is placed beyond the control of the legislative body of the country, for the security of those who own property of this description.

There is another species of argument which I have heard. Some contend that although Congress does not possess the power to enforce the Wilmot proviso, or to exclude slavery from the territories, while they deny that power—thus far they agree with me—still they hold and maintain the doctrine, that the people of the territories only possess the power of legislating for themselves, and that they have the power to legislate upon the subject of slavery, and to exclude it from the territories. This, sir, to my mind, is a more absurd doctrine than to contend for the power in Congress itself. It is conferring upon the people of the territories a much larger power than is possessed by the State government, or than is possessed by the General Government itself, or than is possessed by both the State and the General Government combined. This Government cannot exclude slavery from the territories; neither can the State government. The State sovereignties cannot enact any law that will evade the provision of the Constitution in relation to fugitive slaves. This Government can pass no law in violation of that provision of the Constitution. And yet, sir, it is contended by those, that the people of the territories have ample power over this subject; that they may legislate upon it; that they may exclude it, regardless of the Constitution of the United States, which is extended over the territories. They contend that a handful of people in the territory cannot possess the power of emancipating every fugitive slave who may happen to get within the territory.

Assuming that these are the principles of the Constitution under which we live, and which are binding over every section of the United States, the question recurs to us: Who is the cause of the excitement that disturbs the harmony and quiet of the Republic? Who is it that is responsible for the danger to the stability and integrity of the Union itself? Sir, we have to look and inquire into the causes of this state of things which now surrounds us. In behalf of the section from which I come, I have to say, we are conscious of no wrong on the part of the South. They have done no act, and have applied to Congress for the enactment of no law, which it is pretended on the part of any citizen in the North, is an encroachment upon their constitutional rights, which will deprive them of any privileges, or which will deny to them a perfect equality with the States and people of the southern section. On the other hand, we look around to ascertain the cause of the difficulty which now exists—for some cause of complaint. There is no dissenting opinion. All agree, the North and the South—with the exception, I believe, of the Senator from New York, [Mr. SEWARD,] who denies the existence of the Constitution itself, or who repudiates all its binding force—all agree that the North has failed to comply with the requirements of the Constitution—nay, more, that she has violated that Constitution, to the prejudice and great injury of the southern States and southern people, in relation to the recovery of fugitive slaves. I maintain, by argument, that what is now sought to be done in relation to the territories, is a violation of the rights of the southern people, as plain and palpable to my mind, as that in relation to fugitive slaves. But suppose, for the sake of argument, that I was in error in relation to the construction which I placed upon the Constitution, claiming equality of rights to participate in territories belonging to the United States, acquired by the common blood and treasure of both sections of the Union—what, sir, would be the great principle of justice and equality prescribed, even in the absence of constitutional rights? Would it be said that, upon any principle of justice or of equality of right, one section should be entirely excluded, and that the whole domain should be appropriated to the exclusive use and benefit of another section, simply upon the score of a majority of numbers? Why, sir, authority itself, comes directly in contact with the recommendation of the Father of his country, when he took his final leave of his public station—I mean the Farewell Address of General Washington. In that address, he urged upon all reciprocity and equality, and to abstain from anything that could produce sectional jealousies and heart-burning bickerings. Aside from the constitutional right, this inevitably would be the effect upon the feelings of the great mass of the people.

In the prosecution of this question, then, Mr. President, whether we possess the constitutional power or not, a large portion of the people of the northern States seem to have resolved to carry into practical operation and effect their plan of excluding the southern people from any participation in the territories thus acquired. If parties are to be divided by a sectional line, then, sir, in point of

States and people, the North has the majority. If therefore they can unite among themselves, against the South, the inevitable consequence will be, carrying out their measures in the forms of law. What then would be the inevitable consequence of carrying into practical operation this system of measures, denying to the southern portion of the Confederacy the rights which they believe to be constitutional, and which they believe were guarantied to them by that sacred instrument—rights in derogation of their honor, and in violation of their equality as citizens of the same great Confederacy? What is to be the practical effect upon them? It will be a dissolution of the Union, by calling forth that same spirit which, in the war of the Revolution, actuated Washington, and that gallant band which gathered around him under his command, in resisting an oppression greater and more violent than was shown by our mother country. The southern men, the true descendants of our revolutionary sires, imbued with their spirit, are resolved upon maintaining their rights, and resisting everything like a violation of the Constitution. Who, sir, would be responsible for these consequences? What is the Union? What creates it? What holds it together? It is the Constitution of the United States. Without that instrument, there is no Union. Trample that under foot, and you have broken the Union. All our rights are guarantied within that sacred instrument; and if the southern people are prepared to submit to a usurpation which degrades them to a position inferior to the majority—which deprives them of their constitutional rights and privileges—if they are prepared to submit to this species of usurpation, they are prepared to become slaves to any section that may choose to exercise power over them. But, sir, they are not prepared for this. The inevitable consequence then would be, resistance, and resistance would be a dissolution of the Union; and that event would depend, in my judgment, upon the union of the northern States upon this momentous question now under consideration.

Why, sir, it is sometimes contended that there is no danger—that the South will submit to this outrage—and therefore the North may be encouraged to proceed. It is said by the Senator from Maine, [Mr. HAMLIN,] that the South is not in earnest in these declarations; that Senators from the South, who have spoken here, have objects and purposes in view, manifestly at variance with what they have expressly avowed in their speeches—attributing to them dishonorable if not dishonest motives. This charge against southern Senators is untrue. The southern people not in earnest! Are they to submit as slaves to any and everything which the North may think proper, in violation of the Constitution, by force of their numbers, to fasten upon them? The Senator from New York [Mr. SEWARD] gave us an argument of precisely the same character yesterday.

Politicians of this class, Mr. President, live upon this species of excitement—not upon any peculiar merit or moral worth. For years gone by, when there was no danger of dissolving or disturbing the harmony and integrity of the Union, partisans of both parties did play with these fanatics of the northern section of the country. I agree, sir, that they have been striving—both the Whig and the Democratic parties have been fighting, the one against the other—for the purpose of obtaining the support of the Abolitionists in the election. *Then* there was no danger—the country was quiet. But if these gentlemen can maintain that opinion at the North, and continue to mislead the people—if they can continue the belief that still there is no danger—they can at length carry into practical operation the sermon they have been preaching to the fanatics for years past, for the purpose of acquiring political popularity. Then, indeed, would the Union be in danger.

Who else have we heard use that argument, that the southern people were not in earnest—that it was a mere design to effect a reasonable compromise of that question? We have heard the most distinguished men of the nation—and, I am proud to say, of both sections of the Union, disinterested, patriotic men—who would scorn to acquire a popularity by any such means. Their fears have been aroused; and but the other day the distinguished Senator from Massachusetts [Mr. WEBSTER] showed that he had become sensible that the Union was really in danger, by means of this incendiary movement, and by means of the differences between the two sections. And although I disagree with him upon constitutional grounds, yet, for the sake of the Union—for the sake of harmony, and to perpetuate the work of the Father of this Republic, the liberty achieved by his sword, and consummated by his head and by his hand, in order that it should be handed down to the latest generation—I confess that he has suggested a reasonable mode of adjusting the question. So, sir, we find that there is patriotism in the North, and there is patriotism in the South. The patriotism in the North, and the patriotism in the South, will endeavor to unite. Those who contend that there is no danger, and are desirous of keeping up this fanatical feeling at the North, will know that there is a large portion of patriotism in the North; and the moment the people of the northern States shall discover that they are false prophets—that they are playing upon their credulity—that they are governed by selfish, ambitious motives alone, and not by motives of patriotism—the moment the North shall discover that the Union is in fact in danger—they will rally around the Constitution and the Union; and in rallying for its support, they will abandon those politicians who are its worst enemies.

From the evidence now before me, growing out of the very able and patriotic speech of the gentleman from Massachusetts, the other day, and from the position of other distinguished gentlemen upon this floor, whose opinions have heretofore been expressed, I feel satisfied that the North cannot entirely unite. If, however, the South could unite in its defence, or for self-preservation, then I would say at once that there would be no danger. If the South could be made to rally and unite in the attitude of self-defence and self-preservation, they would maintain their own constitutional rights and liberties, and there would be no danger. The very fact of such an array being presented to the country, would at once demonstrate to the entire northern people that resistance would be inevitable; and whenever that fact shall be demonstrated to the North, I have an abiding confidence that it will be in fact the settlement of the question of the preservation of the Union, although it will

be at the sacrifice of certain politicians at the North.

But, Mr. President, the South is not entirely united, though very nearly so. I agree, and I entertain the strong hope, that it would be entirely so whenever the emergency occurs, and the time for action shall arrive; but the union of the South is not sufficiently complete at present to put an end to the question here, or place it beyond cavil and doubt. Here is the place we would like to see an unbroken phalanx—a united, a determined, a fixed resolution and purpose, to maintain their rights; and that purpose should be communicated, spoken of, and made public, in all parts of the Union. The danger might be discovered—might be seen and felt—in order that we might rally the patriots of the country in every section to preserve the Union from danger. There is, however, as I remarked, not an entire unanimity at the South; for I believe there are a few—and I am gratified to say very few—in the South, who believe and admit the constitutional power of Congress to pass the Wilmot proviso, and that it would be no cause of offence, or of complaint on the part of the southern States. This class of southern men, in my judgment, do more harm than all the fanatics can do in the North. Sir, you will find these gentlemen here pressing and urging the argument to which I have had reference, catching up declarations from this class of southern men, and sending them into northern sections of the country, as evidences that the South will tamely and cowardly submit to any system of legislation which the North may think proper to enforce upon them. This, sir, is not only giving "aid and comfort" to that class of politicians, but it is giving encouragement to them to go on—in fact, it is telling them to go on—to go on perpetuating and perpetrating their outrages upon the rights of the South. The continued commission of these outrages will, in my judgment, effect ultimately a dissolution of the Union—certainly it will be either a dissolution of the Union, or the degradation and ruin of the southern people. This class of men—both the southern men who express these views, and the Free-Soil men, the Wilmot proviso men, and all men of that class and kindred of politicians—I hold to be false to the Constitution of their country, false to the Union, and false to the great mass of the American people. I will not say they are false to themselves, for they may desire a dissolution of the Union.

The other day it was said by the Senator from Maine, [Mr. HAMLIN]—I may not have his precise words, but I have the substance—that they had, in his section of the country once, a class of politicians desiring the dissolution of the Union; and he says those who now imitate their policy, must expect to be recorded upon the same page of history. He alluded, I suppose, to the Southern Convention, which is to sit at Nashville, in June next, and compared it to the Hartford Convention, which assembled in Hartford, for the purpose of taking sides with Great Britain against our own country, when we were engaged in a war with that Government—a convention whose avowed object and purpose was to take sides against the American Government, and perhaps to effect a secession from the American Union. Is there any such thing in the Nashville Convention? Has anything been intimated from which any such inference can be drawn? Why, sir, twelve months ago we had it predicted, when the southern meeting was called, that that meeting was a Hartford meeting; and it was sought to destroy the effect of that meeting by the outcry of *mad dog* and *Hartford Convention*, and such harsh names. What is the object and purpose of the Nashville Convention? Why, sir, the southern meeting last year made an address to the South, representing the aggressions, real and proposed, by the northern States, and gave a statement of the plans which they proposed to carry into operation; and what is the system of measures? This address has aroused the people of the South; they have had their primary meetings; they have spoken in their legislative bodies; and Mississippi has suggested the propriety of calling a southern convention, to sit in Nashville, for the purpose of preserving the Union. The man who pretends—who insinuates otherwise—is trying to make the public believe a falsehood, which he cannot believe himself. The object and purpose of this convention have been expressed. They are for the purpose of consultation—of advice—and to adopt and settle upon some plan of operations of resistance to the aggressions of the North upon their rights, secured to them by the Constitution of the country, and not for the purpose of dissolving this Union, or of forming any other confederacy. The furthest they would go, at the conclusion of their deliberations, would be to submit a series of resolutions, or an address to the people of the South, or a remonstrance to this body, setting forth what would be the consequences of certain acts which may be passed by Congress. Yes, sir; they seek to destroy the merits of this convention, by crying out it is a convention for the purpose of dissolving the Union—making the charge in the absence of proof—nay, more—making the charge against proofs—a charge which they must know to be false when they make it.

This convention is to devise ways and means of preserving the Union, as was the object of the southern meeting twelve months ago in this chamber, and, in preserving the Union, as a matter of course preserving their constitutional rights; for without them, they care nothing for the Union. They will cling to no other Union, but that created by the Constitution of this country, but will not submit to any Union enforced by usurpation. They cling to the Union given to them by the convention, headed by the great name of George Washington. They will stand by that Union, but will resist anything contrary to the provisions of the Constitution. That I understand to be the position of the South. It is not this resistance, but it is this usurped power, which is to produce a dissolution of the Union. Sir, if these usurpations are carried out, the great work is done—the bonds of this Union are broken, and trampled under the feet of the people of the South, by these aggressive usurpations.

This agitation will have the effect of remodeling the political parties of the country, and more especially the political parties of the North. It must necessarily rally a party in the North, of all the patriotism of that section of the country, under one banner—the banner of the Union—whether they were heretofore called Whigs, or Democrats. The Union is now in danger—endangered by an opposite party—an opposite class of politicians

and there must inevitably be a rally under one flag—a flag of the union of the patriots of that section of the country; for it is to that class that we are to look. The South will in future stand forth as one man, and cooperate and act with that party in the North, that maintains the Constitution, that supports and maintains the Union, whether that party heretofore was called Whig, or Democrat. This party becomes the conservative and Union party of the country, and will, therefore, receive the united support of the entire southern section of the Union. There will be another party in the North—a party already in existence—its limits prescribed, its objects avowed, and proclaimed. It is the Abolition party, the Free-Soil party, Wilmot party, and all others of that stamp of political heresy, uniting in one party; these, as a matter of course, will unite with those who do not prefer the Union, but their heresy, and will rally under the flag of the Abolitionists and the Garrisons, to advocate the dissolution of the Union.

I find, Mr. President, in looking at the publications, periodicals, and reports made by the conventions held by these various parties in the North, that they avow their object—their great object—to be that of disunion; and they assign reasons consistent with their own honesty. They say that the Constitution of the United States authorizes slavery throughout the entire land—the peculiar and broad ground that I have assumed. They say that, under the Constitution of the United States, slavery exists everywhere in the United States, and that slavery is even in Massachusetts, by virtue of the clause relating to fugitive slaves. They must go outside of the Constitution of the United States and beyond it; they must overthrow it, put it down, prostrate it, break it, ruin it, and dissolve the Union—not like the Senator, on yesterday, who argues that, although this is the Constitution—although the Supreme Court has recognized this to be the Constitution—and although he has taken a solemn oath to support that Constitution, yet, on account of a higher law, which he thinks he has received from God, he will disregard his oath and the Constitution, cast them aside, and violate and rend the bonds which hold the Union together. He does not seem to possess that sense of moral propriety—that sense of moral responsibility to a Supreme Being—that is entertained and acted upon by Garrison and others of that political school, who say that they cannot remain under this Constitution, or take an oath to support it. The Senator, however, can take a solemn oath to support it to the letter, and then turn round and say that he is not bound by it—not bound to support it by law—say this in violation of the solemn oath which he took, when he took his seat in this body.

Well, Mr. President, I propose to trace this northern party—this Abolition party—a little further, and see how they do stand. I have some few documents which I propose to read upon that subject. The first is, I suppose, the highest authority among them. I propose to read a part of the constitution of this party, for they have a constitution which they have adopted:

Constitution of the American and Foreign Anti-Slavery Society.

Whereas, the Declaration of American Independence asserts that it is a self-evident truth, "that all men are created equal, and that they are endowed by their Creator with certain inalienable rights—that among these are life, liberty, and the pursuit of happiness;" and whereas, this political axiom is based upon the Holy Scriptures, which declare that God "hath made of one blood all nations of men, to dwell on all the face of the earth," and which require all mankind to love their neighbors as themselves; and whereas, nearly three millions of the people of this country are held in slavery by their fellow-countrymen; and whereas, the practice of buying and selling human beings prevails to an alarming extent; and whereas, every man, irrespective of color, is entitled to equality of rights on the soil of his birth and residence; and whereas, the prejudice against color, which exists in this country, is sinful in the sight of God, and should be immediately repented of; and whereas, no scheme of expatriation should be countenanced by any friend of man or God: and whereas, we owe it to the oppressed, to oppressors, to our country, to the world, and to God, to do all that is right, and lawfully, in our power, to bring about the extinction of slavery and the slave-trade; we do hereby agree, with a prayerful reliance on the Divine aid, to form ourselves into a society, to be governed by the following CONSTITUTION:

ART. I. The name of this association shall be the AMERICAN AND FOREIGN ANTI-SLAVERY SOCIETY.

ART. II. The objects of this society shall be the entire extinction of slavery and the slave trade, and the equal security, protection, and improvement of the people of color.

They aim, then, to abolish slavery throughout the entire nation, and throughout the entire world. It is not a society merely composed of Americans—it is composed also of foreigners. It is sustained by the interference of foreign Governments, and foreign Powers are concerned in its organization. It has become the disunion party in the northern portion of these States. We find, sir, that they not only propose to abolish slavery, but to place the blacks upon an equality with the whites in the States where they reside—for they are not permitted to leave those States. They are to be confined to the southern States, after they have been emancipated and slavery is abolished. They are to remain in this Government—to be placed upon an equality with the whites—equally to become citizens of the United States. They are to be eligible to all the offices in the country. They are to be eligible to seats in this chamber, and to all the offices of the country. They are to become, in the largest sense, partners and partakers with us. Is it possible to suppose for a solitary moment, Mr. President, that the southern people are to submit to such degradation—to such ruin? Why, sir, they would be forced to abandon their country. They would be forced to give it up entirely to the black people. They would be robbed of their property, and then robbed of their homes; for it comes to this that the two races will not and cannot live together, as equals, harmoniously. This never could, and never would, be submitted to on the part of the South. But, sir, having read their constitution, I now propose to read a part of the proceedings of the convention of these Abolitionists:

"7. *Resolved*, That while we would express our deep gratitude to all those earnest men and women who find time and strength, amid their labors in behalf of British reform, to study, understand, and protest against American slavery, to give us their sympathy and aid, by *munificent contributions*, and by holding our *Union up to the contempt of Europe*, we feel it would not be invidious to mention William and Mary Howitt, Henry Vincent, and George Thompson, as those to whose untiring advocacy, our cause is especially indebted in this country, as well as for the hold it has gained on the hearts of the British people.

"8. *Resolved*, That the discriminating sense of justice, the steadfast devotedness, the generous munificence, the untiring zeal, the industry, skill, taste, and genius, with which British abolitionists have coöperated with us for the extinction of slavery, command our gratitude.

"From the abolitionists of England, Scotland, and Ireland, we have received renewed and increasing assurances and proofs of their constant and enlightened zeal, in behalf

of the American slave. Liberal gifts from all of these countries, falling behind none of the most bounteous of former years, helped to fill the seanty treasury of the slave."

"Just at this point of time, and when affairs are in this posture, the Free-Soil party appears and claims the support of the Abolitionists, by virtue of its superior anti-slavery pretensions. Its pretensions are specious, and, in fact, include about all that a political party, intending to maintain good faith towards the Constitution, should offer. It proposes to forbid the extension of slavery into the newly-stolen territories, to abolish it wherever the Constitution will permit, and to confine it to its present constitutional and territorial limits. Time was when the Abolitionists would have been thankful for thus much, and when, for maintaining thus much, they were mobbed and hunted, whipped and shot, a price set upon their heads, their name cast out as evil, and they persecuted unto strange cities. But their long and hard-tried experience has attained 'to something of prophetic strain,' and they now plainly perceive that what would have satisfied them in their days of ignorance, falls very far short of what the necessity of the case demands. They can take no part in a movement which contemplates the recognition of the legal relation of master and slave anywhere within the universe of God. They spurn and spit upon the doctrine that any compact can be binding which conditions for the return of a fugitive into the hell of slavery, and for the forcible suppression of an attempt on the part of the slaves to vindicate their rights by 'an appeal to arms and the God of battles.' Their sense of personal honor forbids them to swear to support such a compact, either personally or by proxy, for the purpose of exerting political power, even for the slave, with the intention of performing it—much more with the intention of breaking it.

This connects itself directly with foreign Governments, with foreign power, and shows their alliance. It is not a movement on the part of American people alone, for the purpose of controlling the policy of the United States; but it is a joint coöperation of foreigners with this class of people. In other words, Mr. President, this class of people in the northern States have become the mere instruments in the hands of foreign power, for the purpose of effecting that which they themselves could not accomplish—the overthrow and dissolution of this Union.

In connection with this, I propose to read a statement which astounded me very much the other day, when I heard it made by the distinguished Senator from South Carolina, [Mr. CALHOUN.] I read it merely for the purpose of showing the connection of this party of abolitionists with foreign power. He says:

"Now, sir, I come to Texas. Perhaps no gentleman had more to do with the acquisition of Texas than myself; and I aver that I would have been among the very last individuals in the United States to have made any movement at that time toward the acquisition of Texas; and I go further and say, if I know myself, I was incapable of acquiring any territory simply on the ground that it was to be slave territory. No, sir; a very different motive actuated me. I knew at a very early period that the British Government had given encouragement to the Abolitionists who were represented in the World's Convention. The question of abolition was agitated in that convention; and one gentleman stated that Mr. Adams informed him that, if the British Government chose to abolish slavery in the United States, they must commence at Texas. A committee from this World's Convention was sent to the Secretary of State. It so happened that this very gentleman was present when the intercourse took place between Lord Aberdeen and that committee, and he gave him a full account of it shortly after that occurrence, stating that Lord Aberdeen fell into the project to give encouragement to the Abolitionists."

Having now shown the connection with foreign Powers, I propose to show how this party are organized, and how they intend to effect their object. For that purpose, I will read a portion of the proceedings of the society:

"The day of prophecy is passed—that of fulfillment is come. For long years the Abolitionists have been looking forward to the state of things which is now beginning to develop itself. They have always known that the effect of their labors would at last be seen, in the disturbance of the political elements, and the reconstruction of the political parties. They have seen and said, for long past, that there were no principles on which parties could divide, at this day, in this country, excepting slavery and anti-slavery. A public sentiment has been slowly, and with difficulty, created by the operation of anti-slavery papers, meetings, and lectures, which reach many who know not whence the influences which they feel went forth, and which is now beginning to be seen in Congress, in State Legislatures, and, above all, in the disorganization which is at work in the old political parties. These are things to make the hearts of Abolitionists rejoice. It is not the end, but it is the beginning of the end. The party, yet to be, which is to do this work, will be technically a northern or Free-State party. Its object will be, by the action of the free States alone, outside of the Constitution, to free themselves and the slaves from their guilty support of the system of slavery, while acting under the Constitution. This party will agitate, within the free States, for the formation of a new confederation of States, that shall have no part nor lot in the support of slavery, and shall be free from its despotic sway. It will go for a new Constitution, for a union of freemen—free from the insidious element of tyranny, disguised in compromise. Its object will be the foundation and edifying of a true Republic, where the people will choose their own magistrates, and make their own laws, and not merely register the edicts of a ruthless aristocracy, deriving its hereditary and prescriptive privileges from ownership in human beings.

"This will be a movement which can be carried on in good faith, and above board, and one in which all can unite who hate slavery for the blacks, and subserviency for themselves. We believe great multitudes are ready for this movement now, as soon as it takes a political shape. We are sure that the experience of the Free-Soil party will show multitudes more, that this is their only hope for a national existence and Government, consistent with self-respect and their own rights."

Now, sir, it seems to me that the Senator from New York [Mr. SEWARD] must be regarded as the leader of that party. He has gone further, perhaps, than any other person upon this floor or elsewhere; for he discards the Constitution, and labors to accomplish the object which he seeks, in direct violation of it, to an extent which is not avowed or assumed by any of his friends outside of this chamber. In order that I may not do him injustice, I will read a short extract from his speech, to show that he discards the binding force of the Constitution:

"Wherein do the strength and security of slavery lie? You answer that they lie in the Constitution of the United States, and the constitutions and laws of the slave-holding States. Not at all. It is in the erroneous sentiment of the American people. Constitutions and laws can no more rise above the virtue of the people, than the limped stream can rise above its native spring. Inculcate the love of freedom, and the equal rights of man under the *paternal* roof—see to it, that they are taught in the schools and in the churches. Reform your own code. Extend a cordial welcome to the fugitive who lays his weary limbs at your door, and defend him as you would your paternal gods. Correct your own error, that slavery has any *constitutional guaranty*, which *may not* be released, and ought not to be relinquished. Say to slavery, when it shows its bond and demands the pound of flesh, that if it draws one drop of blood, its life shall pay the forfeit. Inculcate that free States can maintain the rights of hospitality and humanity—that Executive authority can forbear to favor slavery."

What recklessness is contained in this paragraph! When the Senator was Governor of the State of New York, a demand was made upon him for the delivery of a fugitive from justice, charged with having stolen a slave in the State of Virginia. He refused to surrender him upon the doctrine contained in this speech, that there could be no crime committed—no larceny of property in stealing a slave. He practised upon the doctrine. And I suppose he carried it out also in another particular; for he said that if a slave should come into his country, pursued by his master who demanded the pound of flesh—who sought to seize

the slave and to take him off, that master's life would pay the forfeit before the slave would be captured. The Senator would fall in with a "riot" for the purpose of rescuing the slave, and would do it if it cost the life of the owner. These were the sentiments held forth by that Senator, and that is the ground which he took. And he would invoke the aid of Great Britain, or of any other Power, for the purpose of prostrating or tearing down this Union. He speaks of Union—yes, sir; he professes to be for the Union! On yesterday he claimed to be a "Union man." And while a "Union man" he disregards every obligation contained in the Constitution, which creates the Union, denouncing it, and teaching his people to disregard it, and to violate their solemn oaths, in order to carry out the fanatical purposes they have in view; and yet they are upholding the Union! Sir, the cry of Union, and the glorification of the Union, was for the public ear. It would not do for the Senator to go forward and avow his purposes, his object, his willingness to dissolve the Union; for that would cause his constituents, who are so deceived and misled by him, to turn away from him Doubtless his friends, who are, many of them, friends and supporters of the Constitution and of the Union, will abandon him the moment they ascertain that his leading aim is the dissolution of the Union. He knows this, and for that purpose he professes a devotion to the Union.

In the course of the Senator's remarks, he insists that Congress has power to abolish slavery in the District of Columbia, and that we ought to do it. If Congress has the power to abolish slavery in this District, as I have remarked before, the slaves of Virginia and Maryland, in less than a week, would be crowding in here; for the provision of the Constitution for the delivery of fugitive slaves, does not extend to the District of Columbia. The moment you abolish slavery here, the fugitive slave will become free when he enters this District. Abolish slavery here, and here will congregate all the slaves of Maryland and Virginia. They will concentrate here, and their masters will turn in vain to the Constitution for aid—for their property is gone. Who believes that the framers of this Constitution intended any such thing? Who would not be satisfied, from this effect, that they intended that Congress should have no power to abolish slavery in this District, or to interfere with it, or to regard the slave here as anything other than property?

The Senator says, also, that Congress may abolish slavery in the territories. Well, if they can do it, he has only to organize a territorial government, with the Wilmot proviso in it, and then encourage the slaves to abscond to these territories, there to obtain their freedom.

He assumed the doctrine upon yesterday, that the great question now under discussion, was the gradual abolition of slavery throughout the entire nation and preservation of the Union, or the perpetuation of slavery and the dissolution of the Union.

Yes, sir, he boldly advocates, and avows his purpose and object. It is the abolition of slavery. He specifies his plan. It is to pen the slaves up in the States, where they are now located, and permit them to go no further—thereby to force emancipation, as there can be no outlet for them. And if they should fail, he spoke of the sword as a means of accomplishing the same object.

Now, sir, I propose to read from the Farewell Address of General Washington, who described the Senator and his party far better than I can:

"In contemplating the causes which may disturb our Union, it occurs as a matter of serious concern, that any ground should have been furnished for characterizing parties by geographical discriminations—northern and southern, Atlantic and western—whence designing men may endeavor to excite a belief, that there is a real difference of local interests and views. One of the expedients of party, to acquire influence within particular districts, is, to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against jealousies and heart-burnings which spring from these misrepresentations. They tend to render alien to each other those who ought to be bound together by fraternal affection.

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"However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men, will be enabled to subvert the power of the people, and to usurp for themselves the reins of government, destroying afterward the very engines which have lifted them into unjust dominion.

"Toward the preservation of your Government, and the permanency of your present happy state, it is requisite not only that you steadily discountenance irregular opposition to its acknowledged authority, but also that you resist, with care, the spirit of innovation upon its principles, however specious the pretext."

Here, sir, we find the principle upon which the South are to act. He advises us to resist these innovations upon our rights and the Constitution. Does anybody doubt what General Washington meant by the term "resistance"—resistance to encroachments upon the Constitution, and upon constitutional rights. He did not mean speeches and votes alone. He meant resistance which would be effectual. He meant resistance which would preserve and defend those rights. He meant that resistance which he gave the British for their oppressions upon the colonies. That is the species of resistance which he meant, and to which he referred. Again, sir, he says:

"Without looking forward to an extremity of this kind, which nevertheless ought not to be entirely out of sight, the common and continual mischiefs of the spirit of party, are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

"It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms; kindles the animosity of one part against another; foments occasional riot and insurrection. It opens the door to foreign influence and corruption which find a facilitated access to the Government itself, through the channels of party passion. Thus the policy and will of one country are subjected to the policy and will of another."

Here, sir, he has cast a stigma upon the very conduct of these people. He speaks of coöperation with foreign power. He speaks of the political influence of these foreigners acting upon our Government. He predicts that it is to result in the downfall and overthrow of the Constitution. Yet, sir, it is now publicly avowed—publicly made known by the leaders of this anti-Union party of the North. They band themselves together; and what renders it more melancholy is the fact, that a man, who was once President of the United States, was made the first mover and the first candidate of the sectional party for the Presidency. Yes, sir; no other than Martin Van Buren is now fanning this flame to dissolve this Union, and burst the bonds asunder, in order to elevate himself into power. A man that has once been honored by the American people—that has filled the

highest office in their gift—having been defeated upon the second election, and defeated upon a third nomination, because of his opinions in relation to an important national question, has united himself and his destinies with this party in the United States, governed by British abolitionists and by crowned heads, according to their own avowal. He places himself at their head. He seeks to get it into power by producing dissolution and the ruin of the nation.

I am gratified, sir, at the result, and I hope every attempt of every demagogue—of every hollow-hearted and unprincipled man—may meet the same fate that Martin Van Buren met at the last election. But for the fact that we were contemporaries, it never would have been communicated to posterity and to us, that he was a candidate in 1848. He did not receive a single electoral vote. I hope he did not receive the majority in any county of the United States. I hope he did not receive a majority in any precinct in any portion of the United States. The fact ought rather to be handed down to posterity, that Martin Van Buren, the successor of Jackson to the Presidency, and who stood by his side when that old chief read his farewell address to the people, imbodying the sentiments contained in that of General Washington, and who hypocritically professed to approve every sentence and every word of it, has met such a fate. So far as he or his followers are concerned, I have no regret, but am rather glad that he has been passed by, as he has. I am glad he has now unmasked himself, and shown to the people what he is, although the Democracy were so awfully swindled by him; and that we have discovered it before he died, so that we can express our opinion to him now. I take back, sir, every vote that I have ever given for him, and I hope that God will forgive me for those votes, and that my country will forgive me for them. I take back every word I have ever uttered in his praise, or in his defence.

I was favorably struck this morning when the Senator from New York [Mr. DICKINSON] offered a petition, praying Congress to have printed a large number of the Constitution of the United States, together with the Farewell Address of General Washington. I think it was a very sensible move on the part of his constituents. I hope that Congress will carry out the plan, only amending it, by adding to it the Farewell Address of General Jackson. To show Washington's regard for the Constitution, and his strict adherence of it, I propose to read another paragraph from his Farewell Address:

"Bet let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free Governments are destroyed."

Let there be no change by usurpation, even though good may result in that particular instance, because that is the customary weapon by which free Governments are destroyed. I will apply it to the domain of California, as well as to every other constitutional question involved in this debate.

Having gone through with General Washington, I propose to read a few extracts from General Jackson. See how these distinguished men agree:

"Appeals, too, are constantly made to sectional interests, in order to influence the election of the Chief Magistrate, as if it were desired that he should favor a particular quarter of the country, instead of fulfilling the duties of his station with impartial justice to all; and the possible dissolution of the Union has at length become an ordinary and familiar subject of discussion. Has the warning voice of Washington been forgotten, or have designs already been formed to sever the Union?"

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"Mutual suspicion and reproaches may in time create mutual hostility; and artful and designing men will always be found, who are ready to foment these fatal divisions and inflame the natural jealousies of different sections of the country. The history of the world is full of such examples, and especially the history of republics."

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"It is true that cases may be imagined disclosing such a settled purpose of usurpation and oppression on the part of the Government as would justify an appeal to arms. These, however, are extreme cases, which we have no reason to apprehend in a government where the power is in the hands of a patriotic people; and no citizen who loves his country would, in any case whatever, resort to forcible resistance, unless he clearly saw that the time had come when a freeman should prefer death to submission."

Here we find again a description given of Martin Van Buren. "Designing men, always prepared to take advantage of sectional difficulties." And it is not confined to him alone; for I think it will also extend to the Senator from New York, [Mr. SEWARD,] and to all others of that stamp or political cast, whether they call themselves Free-Soilers, Wilmot proviso men, anti-slavery men, or anti-slavery-extension men. They seek to use the power of this Government to accomplish their private wishes and feelings, regardless of the provisions of the Constitution. They seize upon it. Nor am I willing to concede to them all the fanatical feeling which they profess to have upon the subject; for I think the most of this feeling at the present day is political, used by politicians, and not a deep-rooted infection in the northern people. Sir, they love the Union; and although they may not be the advocates of slavery, they have not the will to say they will dissolve the Union, in order to rid themselves of what they may consider a sin in another section of the Union.

Why, sir, has the Senator from New York discovered recently, that Washington, if now alive, would not be a fit associate for him? This Constitution which he denounces—this Constitution which he disregards and tramples under his feet—was the work of that distinguished sage and patriot. Has he forgotten that fact? Does he suppose that if General Jackson were alive, he would not be his equal—who, although he had nothing to do with the formation of this Constitution, had much to do in giving to it a construction, and in maintaining it, and defending it, with a view to the perpetuity of this Government and Union? His purpose was the perpetuity of the Union, for the purpose of perpetuating the rights of all under the Constitution, as guarantied by the Constitution. There are no fictitious rights in any of these States. The patriots who have gone before us, never dreamed of perpetuating any Union to be founded upon the usurpation of any right—to be founded upon the usurpation which they abhorred, and which they had cast off, when perpetrated against them by Great Britain. They admonished those who should come after them against it. They advised them to cling to the Constitution as it is, and not to permit a violation of it, even though it might be to obtain a great good.

But, sir, I will proceed: "It is true that cases 'may be imagined which show such a settled pur-'pose of usurpation and oppression on the part of 'Government as to justify an appeal to arms." Yes,

sir, as "to justify an appeal to arms." And what is he talking about? He is talking about this precise question of sectional divisions and sectional rights. "These, however, are extreme cases which we have no reason to apprehend."

Now, sir, it is very true that General Jackson thought that the time would never come. But why did he think it would never come? Because he had faith in the patriotism of the people, which he believed would be powerful enough to control the designs of politicians. I agree with him in regard to the patriotism of the people, even in relation to the people of the North. But, sir, that people is now deceived and misled by demagogues; by designing, cunning, ambitious, and unprincipled men, who are described by General Washington, who are seeking their own aggrandizement, and are willing to sacrifice the good or the very existence of the country, to gratify their ambitious designs. That people is now misled by such men. They will—they do—possess patriotic feelings; they will maintain this Union; they will rally around the standard of their country, and form a party—an American Union party—more powerful than the British Abolition or American disunion party, in all the States.

Well, Mr. President, I do not think it necessary to read more. I have other extracts marked, equally strong upon this identical subject, relating to the rock upon which this ship may be lost—this sectional question—admonishing and entreating the American people not to permit it—warning them against such designing, unprincipled men as we see now around us fomenting dissensions. Yes, sir; such as we see in this chamber and out of it, who are seeking to form a sectional party, around which they are to rally a free-State party, to work beyond the Constitution, and to do this for the purpose of effecting objects which never can be effected without the dissolution of the Union. I will read one other extract. It bears directly upon this question of sectional parties and objects:

"Motives of philanthropy may be assigned for this unwarrantable interference, and weak men may persuade themselves for a moment that they are laboring in the cause of humanity, and asserting the rights of the human race; but every one, upon sober reflection, will see that nothing but mischief can come from these improper assaults upon the feelings and rights of others. Rest assured that men, found busy in this work of discord, are not worthy of your confidence, and deserve your strongest reprobation.

"In the legislation of Congress, also, and in every measure of the General Government, justice to every portion of the United States should be faithfully observed. No free government can stand without virtue in the people, and a lofty spirit of patriotism; and if the sordid feelings of mere selfishness shall usurp the place which ought to be filled by public spirit, the legislation of Congress will soon be converted into a scramble for personal and sectional advantages."

Now, sir, I think these distinguished gentlemen have pointed out what we now see plainly before us—a class of ambitious and unprincipled men, who, whether they desire it or not, are prosecuting measures for their own aggrandizement, which, unless they are arrested, must end in the dissolution of this Union, and in the destruction of this country.

Now, Mr. President, a few more words, and I have done. I refer to the question of the admission of California. I am opposed to it. I have been unable to see any power on the part of Congress to admit California with no organization whatever—with no government—territorial or otherwise—with no law beyond the law of the sword—the law of military authority. An attempt has been made to give law and government to California for several sessions; and, sir, notwithstanding the charges made by this Abolition party, which is laboring for the dissolution of the Union, the South is not in any way responsible for the failure of those attempts. I advocated and supported those measures, and other southern Senators did the same. I advocated and supported the measure proposed by Mr. Clayton, of a select committee, commonly called the Clayton bill. That bill transferred all the questions relating to this subject to the jurisdiction of the Supreme Court—the proper arbiter of this agitated and perplexed question between the two sections of the Union. The southern members sustained it, with a few exceptions. Those especially who are charged now with disunion projects and designs, sustained it. We are taunted very often, and told that we might have had an organization, if we would have accepted and voted for the Wilmot proviso. But Congress had no power to pass that. Here was a proposition to submit all these matters to the Supreme Court of the United States—to leave them all to it; and if it had decided that the South had not the constitutional rights which we contend for, why then it would not be any dishonor, any disgrace, any cause of resistance with the South, that she should be excluded from the territories. She would not feel that her rights had been trampled upon or usurped by the arbitrary exercise of power. But, sir, this proposition was voted down, and voted down by men from the North.

Then came the proposition for extending the Missouri compromise line. The South believed that this did not give all that she was entitled to; but for the sake of quiet, she was willing to agree to that. I advocated and supported it; but that, too, was voted down, and voted down by northern men. Finally, there was an amendment offered by the Senator from Wisconsin, [Mr. WALKER.] I gave that my support. In a word, I have ever voted for every proposition to give a government to those territories. I am not, therefore, to be charged with designing the dissolution of the Union. I have labored incessantly to have a compromise and amicable arrangement of this whole difficulty. Everything has been voted down, and voted down by those who now seek to fasten upon us this deprivation of government in California, and the other territories.

They now seek to pass this exclusion, upon the ground that our honor is not now to be affected; that California will now come in as a State, and not under a territorial government; and that the exclusion of slavery will now be her act, and not that of Congress, under the Wilmot proviso. Why, Mr. President, so far as this refers to anything in the so-called State of California, I do not propose to examine it at all. I say that there is no State formed, whose constitution can be considered in any way. When we speak of States, we speak of those which have a legal existence. Has the State of California a legal existence? Where do we find it? It is wholly the work of a military commander, General Riley, calling a convention for the people of the territories.

Before you can get even a legal convention, you must have the boundaries of the State legally

assigned, in order that you may know who it is that is to be entitled to vote, and for whom it is that the government is to be formed. They must live within that boundary. Those living without the boundary, are not to vote; General Riley laid off the districts for the election of the members of the convention; General Riley prescribed and fixed the qualifications of the voters; General Riley appointed the judges; General Riley made the law, and authorized those judges to be sworn in and administer the oath; General Riley did everything that was done, and which belonged to Congress to do, and which alone could be legally done by Congress. It was not possible that these steps could be legally taken. I do not care to inquire whether General Riley was acting under an authorization from the President of the United States, or not. It was not possible for the President to give an authorization that should have any validity. The people did nothing in the matter of themselves. They were ordered to do what they did by a military chieftain—commanded to do it. They acted in obedience to military orders.

Now, sir, so far as any action is concerned, California either does, or does not, belong to the United States. If California belongs to the United States, then it is for us to prescribe a government for them; it is for Congress to direct them to hold their convention for the purpose of forming a State constitution; and it is for Congress to lay off a boundary for it, to prescribe districts and the qualifications of voters, and to inflict punishment upon those who shall cast votes illegally. All this is to be regulated by the law-making power of the Government; and we acknowledge no dictator—no power of that sort, either in the territory or in the States—no power to lay off States, and to prescribe all other things necessary for the formation of the State constitution.

But, Mr. President, there is another objection, and that is, that there is something in the course of action on this subject which I do not fully comprehend. We are told by Mr. Clayton, in his instructions to Mr. King, as follows:

"You are fully possessed of the President's views, and can properly suggest for the people of California, the adoption of measures calculated to give them protection. Those measures must, of course, originate solely with themselves; but assure them," &c.

Now, sir, he was possessed of the President's views. I saw also a letter from Mr. King, stating that he had no private instructions from the President—that there were no instructions attached. If they did not choose to call them instructions, he was apprized, at least, of the President's views in relation to this matter. These views were secret—they are not put in writing. We cannot obtain them. Perhaps that is one reason why they do not assume the character of instructions, for I believe there has never been an instance, in the history of this Government, where a foreign minister has received secret instructions. I know they are often secret, for the time being, but they are subject to be called for whenever the public interest shall demand it. But here is a possession of the President's views, and it is suggested to him, that he can, in a certain mode, carry out and accomplish these views.

Now, sir, by that instruction, or by that secret understanding—or call it anything else (I do not profess to be sufficiently skilled in this diplomatic matter to decide whether this technically amounts to instructions or not)—here is the view of the President of the United States, not committed to writing, in relation to the people of California, which he desires to be carried out into practical operation by an agent whom he sends for that purpose. The minister is apprized of it; he is told to go and have it accomplished—have it carried into practical operation. What is that? If there was no other objection to it, sir, I would demand and I would know what that secret matter was which the President so much desired, and which had been communicated in some form or other to Mr. King; and if they will not have it to be instructions, then let us take it in such form as he may choose to give it. If they will not have it oral or written communication, then it must be, the Secretary of State has lied. But I do not choose to believe that—I believe there was secret instruction or knowledge; for I do not care to encounter Mr. King's denial. Here is the knowledge of what the President desired; but in order to be certain, it was to be distinctly understood that it is a movement on the part of the people themselves. Now, for one—being the first time in the history of this government, I believe, that anything of this form has occurred, where there is a desire which has been communicated on the part of the Executive to accomplish his object, but which has nowhere been put upon paper—I would say, for the purpose of putting down all such conduct in the future, and of stamping it as highly improper, I will disregard whatever may have been done. The fact of its not being upon paper, but secret—being hidden from the world in all time to come—affords suspicion that all is not right. For that reason, I, for one, would be disposed to reject it.

I could not, therefore, vote for the admission of California. It is a mere trick and contrivance to avoid—what? To avoid the Wilmot proviso. It is a contrivance to save the President from committing himself upon the Wilmot proviso. I would not blame the President, or his Cabinet, if they were to avoid or evade this question, if they could do it without sacrificing the rights of any section of the Union; and in this evasion I see the rights of the southern section evaded and sacrificed, to save him and his popularity, either with the North or the South, as his action would incur the censure of the one or other section of the Union, acting upon this question which has been submitted in the form of a territorial government. I am not, therefore, on that account, disposed to favor it; but I am willing to meet it in the question of the admission of this or other territories. If we can agree as to one, we can agree as to all. If we can settle one, we can settle all. To admit California is to surrender all: slavery will be excluded from every portion of our newly-acquired territory of any value, and will have been excluded by a trick—a contrivance—as I verily believe, and in violation of the fundamental provisions of the Constitution of the United States.

CALIFORNIA, UNION, AND FREEDOM.

SPEECH OF WILLIAM H. SEWARD,

ON THE

ADMISSION OF CALIFORNIA.

Delivered in the Senate of the United States, March 11, 1850.

Four years ago, California, a Mexican Province, scarcely inhabited and quite unexplored, was unknown even to our usually immoderate desires, except by a harbor, capacious and tranquil, which only statesmen then foresaw would be useful in the oriental commerce of a far distant, if not merely chimerical, future.

A year ago, California was a mere military dependency of our own, and we were celebrating with unanimity and enthusiasm its acquisition, with its newly-discovered but yet untold and untouched mineral wealth, as the most auspicious of many and unparalleled achievements.

To-day, California is a State, more populous than the least and richer than several of the greatest of our thirty States. This same California, thus rich and populous, is here asking admission into the Union, and finds us debating the dissolution of the Union itself.

No wonder if we are perplexed with ever-changing embarrassments! No wonder if we are appalled by ever-increasing responsibilities! No wonder if we are bewildered by the ever-augmenting magnitude and rapidity of national vicissitudes!

SHALL CALIFORNIA BE RECEIVED? For myself, upon my individual judgment and conscience, I answer, Yes. For myself, as an instructed representative of one of the States, of that one even of the States which is soonest and longest to be pressed in commercial and political rivalry by the new Commonwealth, I answer, Yes. Let California come in. Every new State, whether she come from the East or from the West, every new State, coming from whatever part of the continent she may, is always welcome. But California, that comes from the clime where the west dies away into the rising east; California, which bounds at once the empire and the continent; California, the youthful queen of the Pacific, in her robes of freedom, gorgeously inlaid with gold—is doubly welcome.

And now I inquire, first, *Why should California be rejected?* All the objections are founded only in the circumstances of her coming, and in the organic law which she presents for our confirmation.

1st. California comes UNCEREMONIOUSLY, without a *preliminary* consent of Congress, and therefore by usurpation. This allegation, I think, is not quite true; at least not quite true in spirit. California is not here of her own pure volition. We tore California violently from her place in the Confederation of Mexican States, and stipulated by the treaty of Guadalupe Hidalgo, that the territory should be admitted by States into the American Union as speedily as possible.

But the letter of the objection still holds. California does come without a preliminary consent by Congress to form a Constitution. But Michigan and other States presented themselves in the same unauthorized way, and Congress *waived the irregularity*, and sanctioned the usurpation. California pleads these precedents. Is not the plea sufficient?

But it has been said by the honorable Senator from South Carolina, [Mr. CALHOUN,] that the Ordinance of 1787 secured to Michigan the right to become a State, when she should have sixty thousand inhabitants. Owing to some neglect, Congress delayed taking the census. And this is said in palliation of the irregularity of Michigan. But California, as has been seen, had a treaty, and Congress, instead of giving previous consent, and instead of giving her the customary Territorial Government, as they did to Michigan, failed to do either, and thus practically refused both, and so abandoned the new community, under most unpropitious circumstances, to anarchy. California then made a Constitution for herself, but not unnecessarily and presumptuously, as Michigan did. She made a Constitution for herself, and she comes here under the law, the paramount law of self-preservation.

In that she stands justified. Indeed, California is more than justified. She was a *colony*, a *military* colony. All colonies, especially military colonies, are incongruous with our political system, and they are equally open to corruption and exposed to oppression.

They are, therefore, not more unfortunate in their own proper condition than fruitful of dangers to the parent Democracy. California, then, acted wisely and well in establishing self-government. She deserves not rebuke, but praise and approbation. Nor does this objection come with a good grace from those who offer it. If California were now content to receive only a Territorial charter, we could not agree to grant it without an inhibition of slavery, which, in that case, being a Federal act, would render the attitude of California, as a Territory, even more offensive to those who now repel her than she is as a State, with the same inhibition in the Constitution of her own voluntary choice.

A second objection is, *California has assigned her own boundaries without the previous authority of Congress.* But she was left to organize herself without any boundaries fixed by previous law or by prescription. She was obliged, therefore, to assume boundaries, since without boundaries she must have remained unorganized.

A third objection is, that California is too large.

I answer, first, there is no common standard of States. California, although greater than many, is less than one of the States.

Secondly. California, if too large, may be divided with her own consent, which is all the security we have for reducing the magnitude and averting the preponderance of Texas.

Thirdly. The boundaries of California seem not at all *unnatural.* The territory circumscribed is altogether contiguous and compact.

Fourthly. The boundaries are convenient. They embrace only inhabited portions of the country, commercially connected with the port of San Francisco. No one has pretended to offer boundaries more in harmony with the physical outlines of the region concerned, or more convenient for civil administration.

But to draw closer to the question, what shall be the boundaries of a new State concerns—

First. The State herself, and California of course is content.

Secondly. Adjacent communities. Oregon does not complain of encroachment, and there is no other adjacent community to complain.

Thirdly. The other States of the Union. The larger the Pacific States, the smaller will be their relative power in the Senate. All the States now here are Atlantic States and inland States, and surely they may well indulge California in the largest liberty of boundaries.

The fourth objection to the admission of California is, that no census had been taken, and no laws prescribing the qualifications of suffrage and the apportionment of Representatives in Convention, existed before her Convention was held.

I answer, California was left to act *ab initio.* She must begin somewhere, without a census, and without such laws. The Pilgrim Fathers began in the same way on board the Mayflower; and, since it has been objected that some of the electors in California may have been aliens, I add, that all of the Pilgrim Fathers were aliens and strangers to the Commonwealth of Plymouth.

Again, the objection may well be *waived*, if the Constitution of California is satisfactory, first to herself, secondly to the United States.

First. Not a murmur of discontent has followed California to this place.

Second. As to ourselves, we confine our inquiries about the constitution of a new State to four things—

1st. The *boundaries* assumed; and I have considered that point in this case already.

2d. That the domain within the State is secured to us. And it is admitted that this has been properly done.

3d. That the Constitution shall be republican, and not aristocratic or monarchical. In this case the only objection is that the Constitution, inasmuch as it inhibits slavery, is altogether too republican.

4th. That the representation claimed shall be just and equal. No one denies that the population of California, is sufficient to demand two representatives on the federal basis; and, secondly, a new census is at hand, and the error, if there is one, will be immediately corrected.

The fifth objection is—California comes under Executive influence. 1st. In her coming as a free State. 2d. In her coming at all.

The first charge rests on suspicion only, is peremptorily denied, and the denial is not controverted by proofs. I dismiss it altogether.

The second is true, to the extent that the present President advised the people of California, that, having been left without any civil government, under the military supervision of the Executive, without any authority of law whatever, the adoption of a Constitution, subject to the approval of Congress, would be regarded favorably by the President. Only a year ago, it was complained that the exercise of the military power to maintain law and order in California, was a fearful innovation. But now the wind has changed, and blows even stronger from the opposite quarter.

May this Republic never have a President commit a more serious or more dangerous usurpation of power than the act of the present eminent Chief Magistrate, in endeavoring to induce legislative authority to relieve him from the exercise of military power, by establishing civil institutions regulated by law in distant provinces! Rome would have been standing this day, if she had had such generals and such tribunes.

3d. But the objection, whether true in part, or even in the whole, is immaterial. The question is, not what moved California to impress any particular feature on her Constitution, nor even what induced her to adopt a Constitution at all; but it is whether, since she has adopted a Constitution, she shall be admitted into the Union.

I have now reviewed all the objections raised

against the admission of California. It is seen that they have no foundation in the law of nature and of nations. Nor are they founded in the Constitution, for the Constitution prescribes no form or manner of proceeding in the admission of new States, but leaves the whole to the discretion of Congress. "Congress may admit new States." The objections are all merely formal and technical. They rest on precedents which have not always, nor even generally, been observed. But it is said that we ought now to establish a safe precedent for the future.

I answer 1st. It is too late to seize this occasion for that purpose. The irregularities complained of being unavoidable, the caution should have been exercised when, 1st, Texas was annexed; 2d, when we waged war against Mexico; or, 3d, when we ratified the treaty of Guadalupe Hidalgo.

I answer 2d. We may establish precedents at pleasure. Our successors will exercise *their* pleasure about following them, just as we have done in such cases.

I answer 3d. States, nations, and empires, are apt to be peculiarly capricious, not only as to the *time*, but even as to the *manner* of their being born, and as to their subsequent political changes. They are not accustomed to conform to precedents. California sprang from the head of the nation, not only complete in proportions and full armed, but ripe for affiliation with its members.

I proceed now to state my reasons for the opinion that California OUGHT TO BE ADMITTED. The population of the United States consists of natives of Caucasian origin, and exotics of the same derivation. The native mass rapidly assimilates to itself and absorbs the exotic, and thus these constitute one homogeneous people. The African race, bond and free, and the aborigines, savage and civilized, being incapable of such assimilation and absorption, remain distinct, and, owing to their peculiar condition, they constitute inferior masses, and may be regarded as accidental if not disturbing political forces. The ruling homogeneous family planted at first on the Atlantic shore, and following an obvious law, is seen continually and rapidly spreading itself westward year by year, subduing the wilderness and the prairie, and thus extending this great political community, which, as fast as it advances, breaks into distinct States for municipal purposes only, while the whole constitutes one entire contiguous and compact nation.

Well established calculations in political arithmetic enable us to say that the aggregate population of the nation now is - - - 22,000,000

That 10 years hence it will be - 30,000,000
" 20 do do - - 33,000,000
" 30 do do - - 50,000,000
" 40 do do - - 64,000,000
" 50 do do - - 80,000,000
" 100, that is, in the year 1950 - 200,000,000

qual nearly to one-fourth of the present aggregate opulation of the globe, and double the population of Europe at the time of the discovery of America. But the advance of population on the Pacific will far exceed what has heretofore occurred on the Atlantic coast, while emigration even here is outstripping the calculations on which the estimates are based. There are silver and gold in the mountains and ravines of California. The granite of New England and New York is barren.

Allowing due consideration to the increasing density of our population, we are safe in assuming, that long before this mass shall have attained the maximum of numbers indicated, the entire width of our possessions from the Atlantic to the Pacific ocean will be covered by it, and be brought into social maturity and complete political organization.

The question now arises, Shall this one great people, having a common origin, a common language, a common religion, common sentiments, interests, sympathies, and hopes, remain one political State, one nation, one republic, or shall it be broken into two conflicting and probably hostile nations or republics? There cannot ultimately be more than two. For the habit of association is already formed, as the interests of mutual intercourse arebeing formed. It is already ascertained where the centre of political power must rest. It must rest in the agricultural interests and masses, who will occupy the interior of the continent. These masses, if they cannot all command access to both oceans, will not be obstructed in their approaches to that one, which offers the greatest facilities to their commerce.

Shall the American people, then, be divided? Before deciding on this question, let us consider our position, our power, and capabilities.

The world contains no seat of empire so magnificent as this; which, while it embraces all the varying climates of the temperate zone, and is traversed by wide-expanding lakes and long-branching rivers, offers supplies on the Atlantic shores to the overcrowded nations of Europe, while on the Pacific coast it intercepts the commerce of the Indies. The nation thus situated, and enjoying forest, mineral, and agricultural resources unequalled, if endowed also with moral energies adequate to the achievement of great enterprises, and favored with a Government adapted to their character and condition, must command the empire of the seas, which alone is real empire.

We think, that we may claim to have inherited physical and intellectual vigor, courage, invention, and enterprise; and the systems of education prevailing among us open to all the stores of human science and art.

The old world and the past were allotted by Providence to the pupilage of mankind, under the hard discipline of arbitrary power, quelling the violence of human passions. The new world and the future seem to have been appointed for the maturity of mankind, with the development of self-government operating in obedience to reason and judgment.

We have thoroughly tried our novel system of

Democratic Federal Government, with its complex, yet harmonious and effective combination of distinct local elective agencies, for the conduct of domestic affairs, and its common central elective agencies, for the regulation of internal interests and of intercourse with foreign nations; and we know, that it is a system equally cohesive in its parts, and capable of all desirable expansion; and that it is a system, moreover, perfectly adapted to secure domestic tranquillity, while it brings into activity all the elements of national aggrandizement. The Atlantic States, through their commercial, social, and political affinities and sympathies, are steadily renovating the Governments and the social constitutions of Europe and of Africa. The Pacific States must necessarily perform the same sublime and beneficent functions in Asia. If, then, the American people shall remain an undivided nation, the ripening civilization of the West, after a separation growing wider and wider for four thousand years, will, in its circuit of the world, meet again and mingle with the declining civilization of the East on our own free soil, and a new and more perfect civilization will arise to bless the earth, under the sway of our own cherished and beneficent democratic institutions.

We may then reasonably hope for greatness, felicity, and renown, exceeding any hitherto attained by any nation, if, standing firmly on the continent, we loose not our grasp on the shore of either ocean. Whether a destiny so magnificent would be only partially defeated, or whether it would be altogether lost by a relaxation of that grasp, surpasses our wisdom to determine, and happily it is not important to be determined. It is enough, if we agree that expectations so grand, yet so reasonable and so just, ought not to be in any degree disappointed.

And now it seems to me, that the perpetual unity of our empire hangs on the decision of this day and of this hour.

California is already a State, a complete and fully appointed State. She never again can be less than that. She can never again be a province or a colony; nor can she be made to shrink and shrivel into the proportions of a federal dependent Terrritory. California, then, henceforth and forever, must be, what she is now, a State.

The question whether she shall be one of the United States of America *has* depended on her and on us. Her election has been made. Our consent alone remains suspended; and that consent must be pronounced now or never. I say *now* or *never*. Nothing prevents it now, but want of agreement among ourselves. Our harmony cannot increase while this question remains open. We shall never agree to admit California, unless we agree now. Nor will California abide delay. I do not say that she contemplates independence; but, if she does not, it is because she does not anticipate rejection. Do you say that she can have no motive? Consider, then, her attitude if rejected. She needs a constitution, a legislature, and magistrates; she needs titles to that golden domain of ours within her borders; good titles, too; and you must give them on your own terms, or she must take them without your leave. She needs a mint, a custom-house, wharves, hospitals, and institutions of learning; she needs fortifications, and roads, and railroads; she needs the protection of an army and a navy; either your stars and stripes must wave over her ports and her fleets, or she must raise aloft a standard for herself; she needs, at least, to know whether you are friends or enemies; and, finally, she needs what no American community can live without, sovereignty and independence—either a just and equal share of yours, or sovereignty and independence of her own.

Will you say that California could not aggrandize herself by separation? Would it, then, be a mean ambition to set up within fifty years, on the Pacific coast, monuments like those which we think two hundred years have been well spent in establishing on the Atlantic coast?

Will you say that California has no ability to become independent? She has the same moral ability for enterprise that inheres in us, and that ability implies command of all physical means. She has advantages of position. She is practically further removed from you than England. You cannot reach her by railroad, nor by unbroken steam navigation. You can send no armies over the prairie, the mountain, and the desert, nor across the remote and narrow Isthmus within a foreign jurisdiction, nor around the Cape of Storms. You may send a navy there, but she has only to open her mines, and she can seduce your navies and appropriate your floating bulwarks to her own defence. Let her only seize your domain within her borders, and your commerce in her ports, and she will have at once revenues and credit adequate to all her necessities. Besides, are we so moderate, and has the world become so just, that we have no rivals and no enemies to lend their sympathies and aid to compass the dismemberment of our empire?

Try not the temper and fidelity of California—at least not now, not yet. Cherish her and indulge her until you have extended your settlements to her borders, and bound her fast by railroads, and canals, and telegraphs, to your interests—until her affinities of intercourse are established, and habits of loyalty are fixed—and then she can never be disengaged.

California would not go alone. Oregon, so intimately allied to her, and as yet so loosely attached to us, would go also; and then at least the entire Pacific coast, with the western declivity of the Sierra Nevada, would be lost. It would not depend at all upon us, nor even on the mere forbearance of California, how far eastward the long line across the temperate zone should be drawn, which should separate the Republic of the Pacific from the Republic of the Atlantic. Terminus has passed away with all the deities of the ancient Pantheon, but his sceptre remains. Commerce is the god of boundaries, and no man now living can foretell his ultimate decree.

But it is insisted that the admission of California shall be attended by a COMPROMISE of questions which have arisen out of SLAVERY!

I AM OPPOSED TO ANY SUCH COMPROMISE, IN ANY AND ALL THE FORMS IN WHICH IT HAS BEEN PROPOSED. Because, while admitting the purity and the patriotism of all from whom it is my misfortune to differ, I think all legislative compromises radically wrong and essentially vicious. They involve the surrender of the exercise of judgment and conscience on distinct and separate questions, at distinct and separate times, with the indispensable advantages it affords for ascertaining truth. They involve a relinquishment of the right to reconsider in future the decisions of the present, on questions prematurely anticipated. And they are a usurpation as to future questions of the province of future legislators.

Sir, it seems to me, as if slavery had laid its paralyzing hand upon myself, and the blood were coursing less freely than its wont through my veins, when I endeavor to suppose that such a compromise has been effected, and my utterance forever is arrested upon all the great questions, social, moral, and political, arising out of a subject so important, and as yet so incomprehensible. What am I to receive in this compromise? Freedom in California. It is well: it is a noble acquisition; it is worth a sacrifice. But what am I to give as an equivalent? A recognition of the claim to perpetuate slavery in the District of Columbia; forbearance towards more stringent laws concerning the arrest of persons suspected of being slaves found in the free States; forbearance from the *Proviso* of freedom in the charters of new Territories. None of the plans of compromise offered demand less than two, and most of them insist on all of these conditions. The equivalent then is, some portion of liberty, some portion of human rights in one region for liberty in another region. But California brings gold and commerce as well as freedom. I am, then, to surrender some portion of human freedom in the District of Columbia, and in East California and New Mexico, for the mixed consideration of liberty, gold, and power, on the Pacific coast.

This view of legislative compromises is not *new*. It has widely prevailed, and many of the State Constitutions interdict the introduction of more than one subject into one bill submitted for legislative action.

It was of such compromises that Burke said, in one of the loftiest bursts of even his majestic parliamentary eloquence:

"Far, far from the Commons of Great Britain be all manner of real vice; but ten thousand times farther from them, as far as from pole to pole, be the whole tribe of spurious, affected, counterfeit, and hypocritical virtues! These are the things which are ten thousand times more at war with real virtue; these are the things which are ten thousand times more at war with real duty, than any vice known by its name and distinguished by its proper character.

"Far, far from us be that false and affected candor that is eternally in treaty with crime—that half virtue, which, like the ambiguous animal that flies about in the twilight of a compromise between day and night, is, to a just man's eye, an odious and disgusting thing. There is no middle point, my Lords, in which the Commons of Great Britain can meet tyranny and oppression."

But, sir, if I could overcome my repugnance to compromises in general, I should object to this one, on the ground of the *inequality* and *incongruity* of the interests to be compromised. Why, sir, according to the views I have submitted, California ought to come in, and must come in, whether slavery stands or falls in the District of Columbia; whether slavery stands or falls in New Mexico and Eastern California; and even whether slavery stands or falls in the slave States. California ought to come in, being a free State; and, under the circumstances of her conquest, her compact, her abandonment, her justifiable and necessary establishment of a Constitution, and the inevitable dismemberment of the empire consequent upon her rejection, I should have voted for her admission even if she had come as a slave State. California ought to come in, and must come in at all events. It is, then, an independent, a paramount question. What, then, are these questions arising out of slavery, thus interposed, but collateral questions? They are unnecessary and incongruous, and therefore false issues, not introduced designedly, indeed, to defeat that great policy, yet unavoidably tending to that end.

Mr. FOOTE. Will the honorable Senator allow me to ask him, if the Senate is to understand him as saying that he would vote for the admission of California if she came here seeking admission as a slave State.

Mr. SEWARD. I reply, as I said before, that even if California had come as a slave State, yet coming under the extraordinary circumstances I have described, and in view of the consequences of a dismemberment of the empire, consequent upon her rejection, I should have voted for her admission, even though she had come as a slave State. But I should not have voted for her admission otherwise.

I remark in the next place, that consent on my part would be disingenuous and fraudulent, because the compromise would be unavailing.

It is now avowed by the honorable Senator from South Carolina, [Mr. CALHOUN,] that nothing will satisfy the slave States but a compromise that will convince them that they can remain in the Union consistently with their honor and their safety. And what are the concessions which will have that effect? Here they are, in the words of that Senator:

"The North must do justice by conceding to the South an equal right in the acquired territory, and do her duty by causing the stipulations relative to fugitive slaves to be faithfully fulfilled—cease the agitation of the slave question, and provide for the insertion of a provision in the Constitution, by an amendment, which will restore to the South in substance the power she possessed of protecting herself, before the equilibrium between the sections was destroyed by the action of this Government."

These terms amount to this, that the free States having already, or although they may hereafter have, majorities of States, majorities of population, and majorities in both Houses of Congress, shall concede to the slave States, being in a minority in both,

the unequal advantage of an equality. That is, that we shall alter the Constitution so as to convert the Government from a national democracy, operating by a constitutional majority of voices, into a federal alliance, in which the minority shall have a veto against the majority. And this is to return to the original articles of confederation.

I will not stop to protest against the injustice or the inexpediency of an innovation which, if it was practicable, would be so entirely subversive of the principle of democratic institutions. It is enough to say that it is totally impracticable. The free States, Northern and Western, acquiesced in the long and nearly unbroken ascendancy of the slave States under the Constitution, because the result happened under the Constitution. But they have honor and interests to preserve, and there is nothing in the nature of mankind or in the character of that people to induce an expectation that they, loyal as they are, are insensible to the duty of defending them. But the scheme would still be impracticable, even if this difficulty were overcome. What is proposed is a *political* equilibrium. Every political equilibrium requires a physical equilibrium to rest upon, and is valueless without it. To constitute a physical equilibrium between the slave States and the free States, requires first, an equality of territory, or some near approximation. And this is already lost. But it requires much more than this. It requires an equality or a proximate equality in the number of slaves and freemen. And this must be perpetual.

But the census of 1840 gives a slave basis of only 2,500,000, and a free basis of 14,500,000. And the population on the slave basis increases in the ratio of 25 per cent. for ten years, while that on the free basis advances at the rate of 38 per cent. The accelerating movement of the free population, now complained of, will occupy the new Territories with pioneers, and every day increases the difficulty of forcing or insinuating slavery into regions which freemen have pre-occupied. And if this were possible, the African slave trade is prohibited, and the domestic increase is not sufficient to supply the new slave States which are expected to maintain the equilibrium. The theory of a new political equilibrium claims that it once existed, and has been lost. When lost, and how? It began to be lost in 1787, when preliminary arrangements were made to admit five new free States in the Northwest Territory, two years before the Constitution was finally adopted; that is, it began to be lost two years before it began to exist!

Sir, the equilibrium, if restored, would be lost again and lost more rapidly than it was before. The progress of the free population is to be accelerated by increased emigration from Europe and Asia, while that of the slaves is to be checked and retarded by inevitable partial emancipation. "Nothing," says Montesquieu, "reduces a man so low as always to see freemen, and yet not be free. Persons in that condition are natural enemies of the State, and their numbers would be dangerous if increased too high." Sir, the fugitive slave colonies and the emancipated slave colonies in the free States, in Canada, and in Liberia, are the best guaranties South Carolina has for the perpetuity of slavery.

Nor would success attend any of the details of the compromise. And, first, I advert to the proposed alteration of the law concerning fugitives from service or labor. I shall speak on this as on all subjects, with due respect, but yet frankly and without reservation. The Constitution contains only a compact, which rests for its execution on the States. Not content with this, the slave States induced legislation by Congress; and the Supreme Court of the United States have virtually decided that the whole subject is within the province of Congress; and exclusive of State authority. Nay, they have decided that slaves are to be regarded not merely as persons to be claimed, but as property and chattels, to be seized without any legal authority or claim whatever. The compact is thus subverted by the procurement of the slave States. With what reason, then, can they expect the States *ex gratia* to reassume the obligations from which they caused those States to be discharged? I say, then, to the slave States, you are entitled to no more stringent laws; and that such laws would be useless. The cause of the inefficiency of the present statute is not at all the leniency of its provisions. It is a law that deprives the alleged refugee from a legal obligation not assumed by him, but imposed upon him by laws enacted before he was born, of the writ of *habeas corpus*, and of any certain judicial process of examination of the claim set up by his pursuer, and finally degrades him into a chattel which may be seized and carried away peaceably wherever found, even although exercising the rights and responsibilities of a free citizen of the Commonwealth in which he resides, and of the United States—a law which denies to the citizen all the safeguards of personal liberty, to render less frequent the escape of the bondman. And since complaints are so freely made against the one side, I shall not hesitate to declare that there have been even greater faults on the other side. Relying on the perversion of the Constitution which makes slaves mere chattels, the slave States have applied to them the principles of the criminal law, and have held that he who aided the escape of his fellow-man from bondage was guilty of a larceny in stealing him. I speak of what I know. Two instances came within my own knowledge, in which Governors of slave States, under the provision of the Constitution relating to fugitives from justice, demanded from the Governor of a free State the surrender of persons as thieves whose alleged offences consisted in constructive larceny of the rags that covered the persons of female slaves, whose attempt at escape they permitted or assisted.

We deem the principle of the law for the recapture of fugitives, therefore, unjust, unconstitutional, and immoral; and thus while patriotism withholds its

approbation, the consciences of our people condemn it.

You will say that these convictions of ours are disloyal. Grant it for the sake of argument. They are, nevertheless, honest; and the law is to be executed among us, not among you; not by us, but by the Federal authority. Has any Government ever succeeded in changing the moral convictions of its subjects by force? But these convictions imply no disloyalty. We reverence the Constitution, although we perceive this defect, just as we acknowledge the splendor and the power of the sun, although its surface is tarnished with here and there an opaque spot.

Your Constitution and laws convert hospitality to the refugee from the most degrading oppression on earth into a crime, but all mankind except you esteem that hospitality a virtue. The right of extradition of a fugitive from justice is not admitted by the law of nature and of nations, but rests in voluntary compacts. I know of only two compacts found in diplomatic history that admitted EXTRADITION OF SLAVES. Here is one of them. It is found in a treaty of peace made between Alexander Comnenus and Leontine, Greek Emperors at Constantinople, and Oleg, King of Russia, in the year 902, and is in these words:

"If a Russian slave take flight, or even if he is carried away by any one under pretence of having been bought, his master shall have the right and power to pursue him, and hunt for and capture him wherever he shall be found; and any person who shall oppose the master in the execution of this right shall be deemed guilty of violating this treaty, and be punished accordingly."

This was in the year of Grace 902, in the period called the "Dark Ages," and the contracting Powers were despotisms. And here is the other:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor is due."

This is from the Constitution of the United States in 1787, and the parties were the republican States of this Union. The law of nations disavows such compacts; the law of nature, written on the hearts and consciences of freemen, repudiates them. Armed power could not enforce them, because there is no public conscience to sustain them. I know that there are laws of various sorts which regulate the conduct of men. There are constitutions and statutes, codes mercantile and codes civil; but when we are legislating for States, especially when we are founding States, all these laws must be brought to the standard of the laws of God, and must be tried by that standard, and must stand or fall by it. This principle was happily explained by one of the most distinguished political philosophers of England in these emphatic words:

"There is but one law for all, namely, that law which governs all law, the law of our Creator, the law of humanity, justice, equity, the law of nature and of nations. So far as any laws fortify this primeval law, and give it more precision, more energy, more effect, by their declarations, such laws enter into the sanctuary and participate in the sacredness of its character; but the man who quotes as precedents the abuses of tyrants and robbers, pollutes the very fountains of justice, destroys the foundations of all law, and therefore removes the only safeguard against evil men, whether governors or governed; the guard which prevents governors from becoming tyrants, and the governed from becoming rebels."

There was deep philosophy in the confession of an eminent English judge. When he had condemned a young woman to death, under the late sanguinary code of his country, for her first petty theft, she fell down dead at his feet: "I seem to myself, said he, to have been pronouncing sentence, not against the prisoner, but against the law itself."

To conclude on this point. We are not slaveholders. We cannot, in our judgment, be either true Christians or real freemen, if we impose on another a chain that we defy all human power to fasten on ourselves You believe and think otherwise, and doubtlessly with equal sincerity. We judge you not, and He alone who ordained the conscience of man and its laws of action can judge us. Do we, then, in this conflict, demand of you an unreasonable thing in asking that, since you will have property that can and will exercise human powers to effect its escape, you shall be your own police, and in acting among us as such you shall conform to principles indispensable to the security of admitted rights of freemen? If you will have this law executed, you must alleviate, not increase, its rigors.

Another feature in most of these plans of compromise is a bill of peace for slavery in the District of Columbia; and this bill of peace we cannot grant. We of the free States are, equally with you of the slave States, responsible for the existence of slavery in this District, the field exclusively of our common legislation. I regret that, as yet, I see little reason to hope that a majority in favor of emancipation exists here. The Legislature of New York, from whom, with great deference, I dissent, seems willing to accept now the extinction of the slave trade, and waive emancipation. But we shall assume the whole responsibility if we stipulate not to exercise the power hereafter when a majority shall be obtained. Nor will the plea with which you would furnish us be of any avail. If I could understand so mysterious a paradox myself, I never should be able to explain to the apprehension of the people whom I represent how it was that an absolute and express power to legislate in all cases over the District of Columbia was embarrassed and defeated by an implied condition not to legislate for the abolition of slavery in this District. Sir, I shall vote for that measure, and am willing to appropriate any means necessary to carry it into execution. And, if I shall be asked what I did to embellish the capital of my country, I will point to her freedmen, and say, these are the monuments of my munificence!

If I was willing to advance a cause that I deem sacred by disingenuous means, I would advise you to adopt those means of compromise which I have thus examined. The echo is not quicker in its response than would be that loud and universal cry of repeal, that would not die away until the habeas

corpus was secured to the alleged fugitive from bondage, and the symmetry of the free institutions of the capital was perfected.

I apply the same observations to the proposition for a waiver of the Proviso of Freedom in Territorial charters. Thus far you have only direct popular action in favor of that Ordinance, and there seems even to be a partial disposition to await the action of the people of the new Territories, as we have compulsorily waited for it in California. But I must tell you, nevertheless, in candor and in plainness, that the spirit of the people of the free States is set upon a spring that rises with the pressure put upon it. That spring, if pressed too hard, will give a recoil that will not leave here one servant who knew his master's will, and did it not.

You will say that this implies violence. Not at all. It implies only peaceful, lawful, constitutional, customary action. I cannot too strongly express my surprise that those who insist that the people of the slave States cannot be held back from remedies outside of the Constitution, should so far misunderstand us of the free States as to suppose we would not exercise our constitutional rights to sustain the policy which we deem just and beneficent.

I come now to notice the suggested *compromise of the boundary between Texas and New Mexico.* This is a judicial question in its nature, or at least a question of legal right and title. If it is to be compromised at all, it is due to the two parties, and to national dignity as well as to justice, that it be kept separate from compromises proceeding on the ground of expediency, and be settled by itself alone.

I take this occasion to say, that while I do not intend to discuss the questions alluded to in this connection by the honorable and distinguished Senator from Massachusetts, I am not able to agree with him in regard to the alleged obligation of Congress to admit four new slave States, to be formed in the State of Texas. There are several questions arising out of that subject, upon which I am not prepared to decide now, and which I desire to reserve for future consideration. One of these is, whether the Article of Annexation does really deprive Congress of the right to exercise its choice in regard to the subdivision of Texas into four additional States. It seems to me by no means so plain a question as the Senator from Massachusetts assumed, and that it must be left to remain an open question, as it is a great question, whether Congress is not a party whose future consent is necessary to the formation of new States out of Texas.

Mr. WEBSTER. Supposing Congress to have the authority to fix the number, and time of election, and apportionment of representatives, &c., the question is, whether, if new States are formed out of Texas, to come into this Union, there is not a solemn pledge by law that they have a right to come in as slave States?

Mr. SEWARD. When the States are once formed, they have the right to come in as free or slave States, according to their own choice; but what I insist is, that they cannot be formed at all without the consent of Congress, to be hereafter given, which consent Congress is not obliged to give. But I pass that question for the present, and proceed to say that I am not prepared to admit that the Article of the Annexation of Texas is itself constitutional. I find no authority in the Constitution of the United States for the annexation of foreign countries by a resolution of Congress, and no power adequate to that purpose but the treaty-making power of the President and the Senate. Entertaining this view, I must insist that the coustitutionality of the annexation of Texas herself shall be cleared up before I can agree to the admission of any new States to be formed within Texas.

Mr. FOOTE. Did not I hear the Senator observe that he would admit California, whether slavery was or was not precluded from these Territories?

Mr. SEWARD. I said I would have voted for the admission of California even as a slave State, under the extraordinary circumstances which I have before distinctly described. I say that now; but I say also, that before I would agree to admit any more States from Texas, the circumstances which render such act necessary must be shown, and must be such as to determine my obligation to do so; and that is precisely what I insist cannot be settled now. It must be left for those to whom the responsibility will belong.

Mr. President, I understand, and I am happy in understanding, that I agree with the honorable Senator from Massachusetts, that there is no obligation upon Congress to admit four new slave States out of Texas, but that Congress has reserved her right to say whether those States shall be formed and admitted or not. I shall rely on that reservation. I shall vote to admit no more slave States, unless under circumstances absolutely compulsory.

Mr. WEBSTER. What I said was, that if the States hereafter to be made out of Texas choose to come in as slave States, they have a right so to do.

Mr. SEWARD. My position is, that they have not a right to come in at all, if Congress rejects their institutions. The subdivision of Texas is a matter optional with both parties, Texas and the United States.

Mr. WEBSTER. Does the honorable Senator mean to say that Congress can hereafter decide whether they shall be slave or free States?

Mr. SEWARD. I mean to say that Congress can hereafter decide whether any States, slave or free, can be framed out of Texas. If they should never be framed out of Texas, they never could be admitted.

Another objection arises out of the principle on which the demand for compromise rests. That principle assumes a classification of the States as Northern and Southern States, as it is expressed by the honorable Senator from South Carolina, [Mr. CALHOUN,] but into slave States and free States, as more directly expressed by the honorable Senator from

Georgia, [Mr. BERRIEN.] The argument is, that the States are severally equal, and that these two classes were equal at the first, and that the Constitution was founded on that equilibrium. That the States being equal, and the classes of the States being equal in rights, they are to be regarded as constituting an association in which each State, and each of these classes of States, respectively, contribute in due proportions. That the new Territories are a common acquisition, and the people of these several States and classes of States have an equal right to participate in them, respectively. That the right of the people of the slave States to emigrate to the Territories with their slaves as property is necessary to afford such a participation on their part, inasmuch as the people of the free States emigrate into the same Territories with their property. And the argument deduces from this right the principle that, if Congress exclude slavery from any part of this new domain, it would be only just to set off a portion of the domain—some say south of 36 deg. 30 min., others south of 34 deg.—which should be regarded at least as free to slavery, and to be organized into slave States.

Argument ingenious and subtle, declamation earnest and bold, and persuasion gentle and winning as the voice of the turtle dove when it is heard in the land, all alike and altogether have failed to convince me of the soundness of this principle of the proposed compromise, or of any one of the propositions on which it is attempted to be established.

How is the original equality of the States proved? It rests on a syllogism of Vattel, as follows: All men are equal by the law of nature and of nations. But States are only lawful aggregations of individual men, who severally are equal. Therefore, States are equa in natural rights. All this is just and sound. But assuming the same premises, to wit, that all men are equal by the law of nature and of nations, the right of property in slaves falls to the ground; for one who is equal to another cannot be the owner or property of that other. But you answer, that the Constitution recognises property in slaves. It would be sufficient, then, to reply that this constitutional recognition must be void, because it is repugnant to the law of nature and of nations. But I deny that the Constitution recognises property in man. I submit, on the other hand, most respectfully, that the Constitution not merely does not affirm that principle, but, on the contrary, altogether excludes it.

The Constitution does not *expressly* affirm anything on the subject; all that it contains is two incidental allusions to slaves. These are, first, in the provision establishing a ratio of representation and taxation; and, secondly, in the provision relating to fugitives from labor. In both cases the Constitution designedly mentions slaves, not as slaves, much less as chattels, but as *persons*. That this recognition of them as persons was designed is historically known, and I think was never denied. I give only two of the manifold proofs. First, John Jay, in the Federalist, says:

"Let the case of the slaves be considered, as it is in truth, a peculiar one. Let the compromising expedient of the Constitution be mutually adopted which regards them as *inhabitants*, but as debased below the equal level of free inhabitants, which regards the slave as divested of two-fifths of the man."

Yes, sir, of two fifths, but of only two-fifths; leaving still three-fifths; leaving the slave still an *inhabitant*, a person, a living, breathing, moving, reasoning, immortal man.

The other proof is from the Debates in the Convention. It is brief, and I think instructive:

"*August* 28, 1787.—Mr. BUTLER and Mr. PINCKNEY moved to require fugitive slaves and servants to be delivered up like convicts.

"Mr. WILSON. This would oblige the Executive of the State to do it at public expense.

"Mr. SHERMAN saw no more propriety in the public seizing and surrendering a slave or a servant than a horse.

"Mr. BUTLER withdrew his proposition, in order that some particular provision might be made apart from this article.

"*August* 29.—Mr. BUTLER moved to insert after article 15: 'If any person bound to service or labor in any of the United States shall escape into another State, he or she shall not be discharged from such service or labor in consequence of any regulation subsisting in the State to which they escape, but shall be delivered up to the person justly claiming their service or labor.'"

"After the engrossment, September 15, page 550, article 4, section 2, the 3d paragraph, the term 'legally' was struck out, and the words 'under the laws thereof' inserted after the word 'State,' in compliance with the wishes of some who thought the term 'legal' equivocal, and favoring the idea that slavery was legal in a *moral view*"—*Madison Debates, pp.* 487, 492.

I deem it established, then, that the Constitution does not recognise property in man, but leaves that question, as between the States, to the law of nature and of nations. That law, as expounded by Vattel, is founded in the reason of things. When God had created the earth, with its wonderful adaptations, he gave dominion over it to man, absolute human dominion. The title of that dominion thus bestowed would have been incomplete, if the Lord of all terrestrial things could himself have been the property of his fellow-man.

The right to *have* a slave implies the right in some one to *make* the slave; that right must be equal and mutual, and this would resolve society into a state of perpetual war. But if we grant the original equality of the States, and grant also the constitutional recognition of slaves as property, still the argument we are considering fails. Because the States are not parties to the Constitution as States; it is the Constitution of the People of the United States.

But even if the States continue as States, they surrendered their equality as States, and submitted themselves to the sway of the numerical majority, with qualifications or checks; first, of the representation of three-fifths of slaves in the ratio of representation and taxation; and, secondly, of the equal representation of States in the Senate.

The proposition of an established classification of States as *slave States* and *free States* as insisted on by some, and into *Northern* and *Southern* as maintained by others, seems to me purely imaginary, and of course the supposed equilibrium of those classes

a mere conceit. This must be so, because when the Constitution was adopted twelve of the thirteen States were slave States, and so there was no equilibrium. And so as to the classification of States as Northern States and Southern States. It is the maintenance of slavery by law in a State, not parallels of latidude, that makes it a Southern State; and the absence of this that makes it a Northern State. And so all the States save one were Southern States, and there was no equilibrium. But the Constitution was made not only for Southern and Northern States, but for States neither Northern nor Southern—the Western States, their coming in being foreseen and provided for.

It needs little argument to show that the idea of a joint stock association, or a copartnership, as applicable even by its analogies to the United States, is erroneous, with all the consequences fancifully deduced from it. The United States are a political state, or organized society, whose end is government, for the security, welfare, and happiness of all who live under its protection. The theory I am combating reduces the objects of government to the mere spoils of conquest. Contrary to a theory so debasing, the preamble of the Constitution not only asserts the sovereignty to be, not in the States, but in the People, but also promulgates the objects of the Constitution:

"We, the people of the United States, in order to form a more *more perfect union*, establish *justice*, insure *domestic tranquillity*, provide for the *common defence*, promote the GENERAL WELFARE, and secure the *blessings of liberty*, do order and establish this Constitution."

Objects sublime and benevolent! They exclude the very idea of conquests, to be either divided among States or even enjoyed by them, for the purpose of securing, not the blessings of liberty, but the evils of slavery. There is a novelty in the principle of the compromise which condemns it. Simultaneously with the establishment of the Constitution, Virginia ceded to the United States her domain, which then extended to the Mississippi, and was even claimed to extend to the Pacific ocean. Congress accepted it, and unanimously devoted the domain to freedom, in the language from which the Ordinance now so severely condemned was borrowed. Five States have already been organized on this domain, from all of which, in pursuance of that Ordinance, slavery is excluded. How did it happen that this theory of the equality of States, of the classification of States, of the equilibrium of States, of the title of the States to common enjoyment of the domain, or to an equitable and just partition between them, was never promulgated, nor even dreamed of by the slave States when they unanimously consented to that Ordinance?

There is another aspect of the principle of compromise which deserves consideration. It assumes that slavery, if not the only institution in a slave State, is at least a ruling institution, and that this characteristic is recognised by the Constitution. But *slavery* is only *one* of many institutions there. Freedom is equally an institution there. Slavery is only a temporary, accidental, partial, and incongruous one. Freedom, on the contrary, is a perpetual, organic, universal one, in harmony with the Constitution of the United States. The slaveholder himself stands under the protection of the latter in common with all the free citizens of the State. But it is, moreover, an indispensable institution. You may separate slavery from South Carolina, and the State will still remain; but if you subvert freedom there, the State will cease to exist. But the principle of this compromise gives complete ascendency in the slave State, and in the Constitution of the United States, to the subordinate, accidental, and incongruous institution over its paramount antagonist. To reduce this claim for slavery to an absurdity, it is only necessary to add that there are only two States in which slaves are a majority, and not one in which the slaveholders are not a very disproportionate minority.

But there is yet another aspect in which this principle must be examined. It regards the domain only as a possession, to be enjoyed either in common or by partition by the citizens of the old States. It is true, indeed, that the national domain is ours. It is true it was acquired by the valor and with the wealth of the whole nation. But we hold, nevertheless, no arbitrary power over it. We hold no arbitrary authority over anything, whether acquired lawfully or seized by usurpation. The Constitution regulates our stewardship; the Constitution devotes the domain to union, to justice, to defence, to welfare, and to liberty.

But there is a higher law than the Constitution, which regulates our authority over the domain, and devotes it to the same noble purposes. The territory is a part, no inconsiderable part, of the common heritage of mankind, bestowed upon them by the Creator of the Universe. We are his stewards, and must so discharge our trust as to secure in the highest attainable degree their happiness. How momentous that trust is, we may learn from the instructions of the founder of modern philosophy:

"No man," says Bacon, "can by care-taking, as the Scripture saith, add a cubit to his stature in this little model of a man's body; but, in the great frame of kingdoms and commonwealths, it is in the power of princes or estates to add amplitude and greatness to their kingdoms. For, by introducing such ordinances, constitutions, and customs, as are wise, they may sow greatness to their posterity and successors. But these things are commonly not observed, but left to take their chance."

This is a State, and we are deliberating for it, just as our fathers deliberated in establishing the institutions we enjoy. Whatever superiority there is in our condition and hopes over those of any other "kingdom" or "estate" is due to the fortunate circumstance that our ancestors did not leave things to "take their chance," but that they "added amplitude and greatness" to our commonwealth "by introducing such ordinances, constitutions, and customs, as were wise." We in our turn have succeeded to the same responsibilities, and we cannot approach the duty before us wisely or justly, except we raise ourselves to the great consideration of how we can most certainly "sow greatness to our posterity and successors."

And now the simple, bold, and even awful question which presents itself to us is this: Shall we, who are founding institutions, social and political, for countless millions; shall we, who know by experience the wise and the just, and are free to choose them, and to reject the erroneous and unjust; shall we establish human bondage, or permit it by our sufferance to be established? Sir, our forefathers would not have hesitated an hour. They found slavery existing here, and they left it only because they could not remove it. There is not only no free State which would now establish it, but there is no slave State, which, if it had had the free alternative as we now have, would have founded slavery. Indeed our revolutionary predecessors had precisely the same question before them in establishing an organic law under which the States of Ohio, Michigan, Illinois, Wisconsin, and Iowa, have since come into the Union, and they solemnly repudiated and excluded slavery from those States forever. I confess that the most alarming evidence of our degeneracy which has yet been given is found in the fact that we even debate such a question.

Sir, there is no Christian nation thus free to choose as we are, which would establish slavery. I speak on due consideration, because Britain, France, and Mexico,

have abolished slavery, and all other European States are preparing to abolish it as speedily as they can. We cannot establish slavery, because there are certain elements of the security, welfare, and greatness of nations, which we all admit or ought to admit, and recognise as essential, and these are the security of natural rights, the diffusion of knowledge, and the freedom of industry. Slavery is incompatible with all of these, and just in proportion to the extent that it prevails and controls in any republican State, just to that extent it subverts the principle of democracy, and converts the State into an aristocracy or a despotism. I will not offend sensibilities by drawing my proofs from the slave States existing among ourselves. But I will draw them from the greatest of the Europeon slave States.

The population of Russia in Europe, in

1844, was - - - - - -	54,251,000
Of these were serfs - - - -	53,500,000
The residue nobles, clergy, and merchants, &c. - - - -	751,000

The Imperial Government abandons the control over the fifty-three and a half millions to their owners, and these owners, included in the 751,000, are thus a privileged class, or aristocracy. If ever the Government interferes at all with the serfs, who are the only laboring population, it is by edicts designed to abridge their opportunities of education, and thus continue their debasement. What was the origin of this system? Conquest, in which the captivity of the conquered was made perpetual and hereditary. This, it seems to me, is identical with American slavery, only at one and the same time exaggerated by the greater disproportion between the privileged classes and the slaves in their respective numbers, and yet relieved of the unhappiest feature of American slavery, the distinction of castes. What but this renders Russia at once the most arbitrary despotism and the most barbarous State in Europe? And what is its effect, but industry comparatively profitless, and sedition, not occasional and partial, but chronic and pervading the Empire. I speak of slavery not in the language of fancy, but in the language of philosophy. Montesquieu remarked upon the proposition to introduce slavery into France, that the demand for slavery was the demand of luxury and corruption, and not the demand of patriotism. Of all slavery, African slavery is the worst, for it combines practically the features of what is distinguished as real slavery or serfdom with the personal slavery known in the Oriental world. Its domestic features lead to vice, while its political features render it injurious and dangerous to the State.

I cannot stop to debate long with those who maintain that slavery is itself practically economical and humane. I might be content with saying that there are some axioms in political science that a statesman or a founder of States may adopt, especially in the Congress of the United States, and that among those axioms are these: That all men are created equal, and have inalienable rights of life, liberty, and the choice of pursuits of happiness. That knowledge promotes virtue, and righteousness exalteth a nation. That freedom is preferable to slavery, and that democratic governments, where they can be maintained by acquiescence, without force, are preferable to institutions exercising arbitrary and irresponsible power.

It remains only to remark that our own experience has proved the dangerous influence and tendency of slavery. All our apprehensions of dangers, present and future, begin and end with slavery. If slavery, limited as it yet is, now threatens to subvert the Constitution, how can we, as wise and prudent statesmen, enlarge its boundaries and increase its influence, and thus increase already impending dangers? Whether, then, I regard merely the welfare of the future inhabitants of the new Territories, or the security and welfare of the whole people of the United States, or the welfare of the whole family of mankind, I cannot consent to introduce slavery into any part of this continent which is now exempt from what seems to me so great an evil. These are my reasons for declining to compromise the question relating to slavery as a condition of the admission of California.

In acting upon an occasion so grave as this, a respectful consideration is due to the arguments, founded on extraneous considerations, of Senators who commend a course different from that which I have preferred. The first of these arguments is that Congress has no power to legislate on the subject of slavery within the Territories.

Sir, Congress *may* admit new States; and since Congress may admit, it follows that Congress may *reject* new States. The discretion of Congress in admitting is absolute, except that, when admitted, the State must be a republican State, and must be a STATE: that is, it shall have the constitutional form and powers of a State. But the greater includes the less, and therefore Congress may impose *conditions* of admission not inconsistent with those fundamental powers and forms. Boundaries are such. The reservation of the public domain is such. The right to divide is such. The Ordinance excluding slavery is such a condition. The organization of a Territory is ancillary or preliminary; it is the inchoate, the *initiative* act of admission, and is performed under the clause granting the powers necessary to execute the express powers of the Constitution.

This power comes from the treaty-making power also, and I think it well traced to the power to make needful rules and regulations concerning the public domain. But this question is not a material one now; the power is here to be exercised. The question now is, How is it to be exercised? not whether we shall exercise it at all, however derived. And the right to regulate property, to administer justice in regard to *property, is assumed* in every Territorial charter. If we have the power to legislate concerning property, we have the power to legislate concerning personal rights. Freedom is a *personal* right; and Congress, being the supreme legislature, has the same right in regard to property and personal rights in Territories that the States would have if organized.

The next of this class of arguments is, that the inhibition of slavery in the new Territories is *unnecessary;* and when I come to this question, I encounter the loss of many who lead in favor of admitting California. I had hoped, some time ago, that upon the vastly important question of inhibiting slavery in the new Territories, we should have had the aid especially of the distinguished Senator from Missouri, [Mr. BENTON,] and when he announced his opposition to that measure I was induced to exclaim—

> Cur in theatrum, Cato severe, venisti?
> An ideo, tantum, veneras ut exires?

But, sir, I have no right to complain. The Senator is crowning a life of eminent public service by a heroic and magnanimous act in bringing California into the Union. Grateful to him for this, I leave it to himself to determine how far considerations of human freedom shall govern the course which he thinks proper to pursue.

The argument is, that the *Proviso is unnecessary.* I answer, there, then, can be no error in insisting upon it. But why is it unnecessary? It is said, *first*, by reason of *climate.* I answer, if this be so, why do not the representatives of the slave States

concede the Proviso? They deny that the climate prevents the introduction of slavery. Then I will leave nothing to a contingency. But, in truth, I think the weight of argument is against the proposition. Is there any climate where slavery has not existed? It has prevailed all over Europe, from sunny Italy to bleak England, and is existing now, stronger than in any other land, in ice-bound Russia. But it will be replied, that this is not African slavery. I rejoin, that only makes the case the stronger. If this vigorous Saxon race of ours was reduced to slavery while it retained the courage of semi-barbarism in its own high northern latitude, what security does climate afford against the transplantation of the more gentle, more docile, and already enslaved and debased African to the genial climate of New Mexico and Eastern California?

Sir, there is no climate uncongenial to slavery. It is true it is less productive than free labor in many northern countries. But so it is less productive than free white labor in even tropical climates. Labor is in demand quick in all new countries. Slave labor is cheaper than free labor, and it would go first into new regions; and wherever it goes it brings labor into dishonor, and therefore free white labor avoids competition with it. Sir, I might rely on climate if I had not been born in a land where slavery existed; and this land was all of it north of the 40th parallel of latitude; and if I did not know the struggle it has cost, and which is yet going on, to get complete relief from the institution and its baleful consequences. I desire to propound this question to those who are now in favor of dispensing with the Wilmot Proviso, Was the Ordinance of 1787 necessary or not? Necessary, we all agree. It has received too many eulogiums to be now decried as an idle and superfluous thing. And yet that Ordinance extended the inhibition of slavery from the 37th to the 40th parallel of north latirude. And now we are told that the inhibition named is unnecessary anywhere north of 36 degrees 30 minutes! We are told that we may rely upon the laws of God, which prohibit slave labor north of that line, and that it is absurd to re-enact the laws of God. Sir, there is no human enactment which is just that is not a re-enactment of the law of God. The Constitution of the United States and the Constitutions of all the States are full of such re-enactments. Wherever I find a law of God or a law of nature disregarded, or in danger of being disregarded, there I shall vote to reaffirm it, with all the sanction of the civil authority. But I find no authority for the position that climate prevents slavery anywhere. It is the indolence of mankind in any climate, and not the natural necessity, that introduces slavery in any climate.

I shall dwell only very briefly on the argument derived from the Mexican laws. The proposition, that those laws must remain in force until altered by laws of our own, is satisfactory; and so is the proposition that those Mexican laws abolished and continue to prohibit slavery. And still I deem an enactment by ourselves wise and even necessary. Both of the propositions I have stated are denied with just as much confidence by Southern statesmen and jurists as they are affirmed by those of the free States. The population of the new Territories is rapidly becoming an American one, to whom the Mexican code will seem a foreign one, entitled to little deference or obedience.

Slavery has never obtained anywhere by express legislative authority, but always by trampling down laws higher than any mere municipal laws—the laws of nature and of nations. There can be no oppression in superadding the sanction of Congress to the authority which is so weak and so vehemently questioned. And there is some possibility, if not a probability, that the institution may obtain a foothold surreptitiously, if it should not be absolutely forbidden by our own authority.

What is insisted upon, therefore, is not a mere abstraction or a mere sentiment, as is contended by those why waive the Proviso. And what is conclusive on the subject is, that it is conceded on all hands that the effect of insisting on it prevents the intrusion of slavery into the region to which it is proposed to apply it.

It is insisted that the diffusion of slavery will not increase its evils. The argument seems to me merely specious and quite unsound. I desire to propose one or two questions in reply to it. Is slavery stronger or weaker in these United States, from its diffusion into Missouri? Is slavery weaker or stronger in these United States, from the exclusion of it from the Northwest Territory? The answers to these questions will settle the whole controversy.

And this brings me to the great and all-absorbing argument that the Union is in danger of being dissolved, and that it can only be saved by compromise. I do not know what I would not do to save the Union; and therefore I shall bestow upon this subject a very deliberate consideration.

I do not overlook the fact that the entire delegation from the slave States, although they differ in regard to the details of compromise proposed, and perhaps in regard to the exact circumstances of the crisis, seem to concur in this momentous warning. Nor do I doubt at all the patriotic devotion to the Union which is expressed by those from whom this warning proceeds. And yet, sir, although such warnings have been uttered with impassioned solemnity in my hearing every day for near three months, my confidence in the Union remains unshaken. I think they are to be received with no inconsiderable distrust, because they are uttered under the influence of a controlling interest to be secured, a paramount object to be gained; and that is an equilibrium of power in the Republic. I think they are to be received with even more distrust, because, with the most profound respect, they are uttered under an obviously high excitement. Nor is that excitement an unnatural one. It is a law of our nature that the passions disturb the reason and judgment just in proportion to the importance of the occasion, and the consequent necessity for calmness and candor. I think they are to be distrusted, because there is a diversity of opinion in regard to the nature and operation of this excitement. The Senators from some States say that it has brought all parties in their own region into unanimity. The honorable Senator from Kentucky [Mr. CLAY] says that the danger lies in the violence of party spirit, and refers us for proof to the difficulties which attended the organization of the House of Representatives.

Sir, in my humble judgment, it is not the fierce conflict of parties that we are seeing and hearing; but, on the contrary, it is the agony of distracted parties—a convulsion resulting from the too narrow foundations of both and of all parties—foundations laid in compromises of natural justice and of human liberty. A question, a moral question, transcending the too narrow creeds of parties, has arisen: the public conscience expands with it, and the green withes of party associations give way and break, and fall off from it. No, sir; it is not the State that is dying of the fever of party spirit. It is merely a paralysis of parties, premonitory however of their restoration, with new elements of health and vigor to be imbibed from that spirit of the age which is so justly called Progress.

Nor is the evil that of unlicensed, irregular, and turbulent faction. We are told that twenty Legislatures are in session, burning like furnaces, heating and inflaming the popular passions. But these twenty Legislatures are constitutional furnaces.

They are performing their customary functions, imparting healthful heat and vitality while within their constitutional jurisdiction. If they rage beyond its limits, the popular passions of this country are not at all, I think, in danger of being inflamed to excess. No, sir; let none of these fires be extinguished. Forever let them burn and blaze. They are neither ominous meteors nor baleful comets, but planets; and bright and intense as their heat may be, it is their native temperature, and they must still obey the law which, by attraction toward this solar centre, holds them in their spheres.

I see nothing of that conflict between the Southern and Northern States, or between their representative bodies, which seems to be on all sides of me assumed. Not a word of menace, not a word of anger, not an intemperate word, has been uttered in the Northern Legislatures. They firmly but calmly assert their convictions; but at the same time they assert their unqualified consent to submit to the common arbiter, and for weal or wo abide the fortunes of the Union.

What if there be less of moderation in the Legislatures of the South? It only indicates on which side the balance is inclining, and that the decision of the momentous question is near at hand. I agree with those who say that there can be no peaceful dissolution—no dissolution of the Union by the secession of States; but that disunion, dissolution, happen when it may, will and must be revolution. I discover no omens of revolution. The predictions of the political astrologers do not agree as to the time or manner in which it is to occur. According to the authority of the honorable Senator from Alabama, [Mr. CLEMENS,] the event has already happened, and the Union is now in ruins. According to the honorable and distinguished Senator from South Carolina, [Mr. CALHOUN,] it is not to be immediate, but to be developed by time.

What are the omens to which our attention is directed? I see nothing but a broad difference of opinion here, and the excitement consequent upon it.

I have observed that revolutions which begin in the palace seldom go beyond the palace walls, and they affect only the dynasty which reigns there. This revolution, if I understand it, began in this Senate chamber a year ago, when the representatives from the Southern States assembled here and addressed their constituents on what were called the aggressions of the Northern States. No revolution was designed at that time, and all that has happened since is the return to Congress of legislative resolutions, which seem to me to be conventional responses to the address which emanated from the Capitol.

Sir, in any condition of society there can be no revolution without a cause, an adequate cause. What cause exists here? We are admitting a new State; but there is nothing new in that: we have already admitted seventeen before. But it is said that the slave States are in danger of losing political power by the admission of the new State. Well, sir, is there anything new in that? The slave States have always been losing political power, and they always will be while they have any to lose. At first, twelve of the thirteen States were slave States; now only fifteen out of the thirty are slave States. Moreover, the change is constitutionally made, and the Government was constructed so as to permit changes of the balance of power, in obedience to changes of the forces of the body politic. Danton used to say, "It's all well while the people cry Danton and Robespierre; but wo for me if ever the people learn to say, Robespierre and Danton!" That is all of it, sir. The people have been accustomed to say, the South and the North; they are only beginning now to say, the North and the South.

Sir, those who would alarm us with the terrors of revolution have not well considered the structure of this Government, and the organization of its forces. It is a Democracy of property and persons, with a fair approximation towards universal education, and operating by means of universal suffrage. The constituent members of this Democracy are the only persons who could subvert it; and they are not the citizens of a metropolis like Paris, or of a region subjected to the influences of a metropolis like France; but they are husbandmen, dispersed over this broad land, on the mountain and on the plain, and on the prairie, from the ocean to the Rocky Mountains, and from the great Lakes to the Gulf; and this people are now, while we are discussing their imaginary danger, at peace and in their happy homes, and as unconcerned and uninformed of their peril as they are of events occurring in the moon. Nor have the alarmists made due allowance in their calculations for the influence of conservative reaction, strong in any Government, and irresistible in a rural Republic, operating by universal suffrage. That principle of reaction is due to the force of the habits of acquiescence and loyalty among the people. No man better understood this principle than MACHIAVELLI, who has told us, in regard to factions, that "no safe reliance can be placed in the force of nature and the bravery of words, except it be corroborated by custom." Do the alarmists remember that this Government has stood sixty years already without exacting one drop of blood? that this Government has stood sixty years, and treason is an obsolete crime? That day, I trust, is far off when the fountains of popular contentment shall be broken up; but whenever it shall come, it will bring forth a higher illustration than has ever yet been given of the excellence of the Democratic system; for then it will be seen how calmly, how firmly, how nobly, a great people can act in preserving their Constitution: whom "love of country moveth, example teacheth, company comforteth, emulation quickeneth, and glory exalteth."

When the founders of the new Republic of the South come to draw over the face of this empire, along or between its parallels of latitude or longitude, their ominous lines of dismemberment, soon to be broadly and deeply shaded with fraternal blood, they may come to the discovery then, if not before, that the natural and even the political connections of the region embraced forbid such a partition; that its possible divisions are not Northern and Southern at all, but Eastern and Western, Atlantic and Pacific; and that Nature and Commerce have allied indissolubly for weal and wo the seceders and those from whom they are to be separated; that, while they would rush into a civil war to restore an imaginary equilibrium between the Northern States and the Southern States, a new equilibrium has taken its place, in which all those States are on the one side, and the boundless West is on the other.

Sir, when the founders of the new Republic of the South come to draw those fearful lines, they will indicate what portions of the continent are to be broken off from their connection with the Atlantic, through the St. Lawrence, the Hudson, the Delaware, the Potomac, and the Mississippi; what portion of this people are to be denied the use of the lakes, the railroads, and the canals, now constituting common and customary avenues of travel, trade, and social intercourse; what families and kindred are to be separated, and converted into enemies; and what States are to be the scenes of perpetual border warfare, aggravated by interminable horrors of servile insurrection. When those portentous lines shall be drawn, they will disclose what portion of this people is to retain the army and the navy, and the flag of so many victories; and, on the other

hand, what portion of the people is to be subjected to new and ominous imposts, direct taxes, and forced loans, and conscriptions, to maintain an opposing army, an opposing navy, and the new and hateful banner of sedition. Then the projectors of the new Republic of the South will meet the question—and they may well prepare now to answer it—What is all this for? What intolerable wrong, what unfraternal injustice, have rendered these calamities unavoidable? What gain will this unnatural revolution bring to us? The answer will be: All this is done to secure the institution of African slavery.

And then, if not before, the question will be discussed, What is this institution of slavery, that it should cause these unparalleled sacrifices and these disastrous afflictions? And this will be the answer: When the Spaniards, few in number, discovered the Western Indies and adjacent continental America, they needed labor to draw forth from its virgin stores some speedy return to the cupidity of the court and the bankers of Madrid. They enslaved the indolent, inoffensive, and confiding natives, who perished by thousands, and even by millions, under that new and unnatural bondage. A humane ecclesiastic advised the substitution of Africans reduced to captivity in their native wars, and a pious princess adopted the suggestion, with a dispensation from the head of the church, granted on the ground of the prescriptive right of the Christian to enslave the heathen, to effect his conversion. The colonists of North America, innocent in their unconsciousness of wrong, encouraged the slave traffic, and thus the labor of subduing their territory devolved chiefly upon the African race. A happy conjuncture brought on an awakening of the conscience of mankind to the injustice of slavery, simultaneously with the independence of the Colonies. Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont, New York, New Jersey, and Pennsylvania, welcomed and embraced the spirit of universal emancipation. Renouncing luxury, they secured influence and empire. But the States of the South, misled by a new and profitable culture, elected to maintain and perpetuate slavery, and thus, choosing luxury, they lost power and empire.

When this answer shall be given, it will appear that the question of dissolving the Union is a complex question; that it embraces the fearful issue whether the Union shall stand, and slavery, under the steady, peaceful action of moral, social, and political causes, be removed by gradual, voluntary effort, and with compensation, or whether the Union shall be dissolved, and civil wars ensue, bringing on violent but complete and immediate emancipation. We are now arrived at that stage of our national progress when that crisis can be foreseen, when we must foresee it. It is directly before us. Its shadow is upon us. It darkens the legislative halls, the temples of worship, and the home and the hearth. Every question, political, civil, or ecclesiastical, however foreign to the subject of slavery, brings up slavery as an incident, and the incident supplants the principal question. We hear of nothing but slavery, and we can talk of nothing but slavery. And now, it seems to me that all our difficulties, embarrassments, and dangers, arise, not out of unlawful perversions of the question of slavery, as some suppose, but from the want of moral courage to meet this question of emancipation as we ought. Consequently, we hear on one side demands—absurd, indeed, but yet unceasing—for an immediate and unconditional abolition of slavery, as if any power, except the people of the slave States, could abolish it, and as if they could be moved to abolish it by merely sounding the trumpet violently and proclaiming emancipation, while the institution is interwoven with all their social and political interests, constitutions, and customs.

On the other hand, our statesmen say that "slavery has always existed, and, for aught they know or can do, it always must exist. God permitted it, and he alone can indicate the way to remove it." As if the Supreme Creator, after giving us the instructions of his providence and revelation for the illumination of our minds and consciences, did not leave us, in all human transactions, with due invocations of his Holy Spirit, to seek out his will and execute it for ourselves.

Here, then, is the point of my separation from both of these parties. I feel assured that slavery must give way, and will give way, to the salutary instructions of economy, and to the ripening influences of humanity; that emancipation is inevitable, and is near; that it may be hastened or hindered; and that whether it be peaceful or violent, depends upon the question whether it be hastened or hindered; that all measures which fortify slavery or extend it, tend to the consummation of violence; all that check its extension and abate its strength, tend to its peaceful extirpation. But I will adopt none but lawful, constitutional, and peaceful means, to secure even that end; and none such can I or will I forego. Nor do I know any important or responsible body that proposes to do more than this. No free State claims to extend its legislation into a slave State. None claims that Congress shall usurp power to abolish slavery in the slave States. None claims that any violent, unconstitutional, or unlawful measure shall be embraced. And, on the other hand, if we offer no scheme or plan for the adoption of the slave States, with the assent and co-operation of Congress, it is only because the slave States are unwilling as yet to receive such suggestions, or even to entertain the question of emancipation in any form.

But, sir, I will take this occasion to say that, while I cannot agree with the honorable Senator from Massachusetts in proposing to devote eighty millions of dollars to remove the free colored population from the slave States, and thus, as it appears to me, fortify slavery, there is no reasonable limit to which I am not willing to go in applying the national treasures to effect the peaceful, voluntary removal of slavery itself.

I have thus endeavored to show that there is not now, and there is not likely to occur, any adequate cause for revolution in regard to slavery. But you reply that, nevertheless, you must have guaranties; and the first one is for the surrender of fugitives from labor. That guaranty you cannot have, as I have already shown, because you cannot roll back the tide of social progress. You must be content with what you have. If you wage war against us, you can, at most, only conquer us, and then all you can get will be a treaty, and that you have already.

But you insist on a guaranty against the abolition of slavery in the District of Columbia, or war. Well, when you shall have declared war against us, what shall hinder us from immediately decreeing that slavery shall cease within the national capital?

You say that you will not submit to the exclusion of slaves from the new Territories. What will you gain by resistance? Liberty follows the sword, although her sway is one of peace and beneficence. Can you propagate slavery then by the sword?

You insist that you cannot submit to the freedom with which slavery is discussed in the free States. Will war—a war for slavery—arrest or even moderate that discussion? No, sir; that discussion will not cease; war would only inflame it to a greater height. It is a part of the eternal conflict between truth and error—between mind and physical force—the conflict of man against the obstacles which oppose his way to an ultimate and glorious destiny. It will go on until you shall terminate it in the only way in

which any State or nation has ever terminated it—by yielding to it—yielding in your own time, and in your own manner, indeed, but nevertheless yielding to the progress of emancipation. You will do this, sooner or later, whatever may be your opinion now; because nations which were prudent and humane, and wise as you are, have done so already.

Sir, the slave States have no reason to fear that this inevitable change will go too far or too fast for their safety or welfare. It cannot well go too fast or too far if the only alternative is a war of races.

But it cannot go too fast. Slavery has a reliable and accommodating ally in a party in the free States, which, though it claims to be, and doubtless is in many respects, a party of progress, finds its sole security for its political power in the support and aid of slavery in the slave States. Of course, I do not include in that party those who are now co-operating in maintaining the cause of freedom against slavery. I am not of that party of progress in the North which thus lends its support to slavery. But it is only just and candid that I should bear witness to its fidelity to the interests of slavery.

Slavery has, moreover, a more natural alliance with the aristocracy of the North and with the aristocracy of Europe. So long as slavery shall possess the cotton-fields, the sugar-fields, and the rice-fields of the world, so long will commerce and capital yield it toleration and sympathy. Emancipation is a democratic revolution. It is capital that arrests all democratic revolutions. It was capital that in a single year rolled back the tide of revolution from the base of the Carpathian mountains, across the Danube and the Rhine, into the streets of Paris. It is capital that is rapidly rolling back the throne of Napoleon into the chambers of the Tuileries.

Slavery has a guaranty still stronger than these in the prejudices of caste and color, which induce even large majorities in all the free States to regard sympathy with the slave as an act of unmanly humiliation and self-abasement, although philosophy meekly expresses her distrust of the asserted natural superiority of the white race, and confidently denies that such a superiority, if justly claimed, could give a title to oppression.

There remains one more guaranty—one that has seldom failed you, and will seldom fail you hereafter. New States cling in closer alliance than older ones to the Federal power. The concentration of the slave power enables you for long periods to control the Federal Government with the aid of the new States. I do not know the sentiments of the representatives of California, but my word for it, if they should be admitted on this floor to-day, against your most obstinate opposition, they would, on all questions really affecting your interests, be found at your side.

With these alliances to break the force of emancipation, there will be no disunion and no secession. I do not say that there may not be disturbance, though I do not apprehend even that. Absolute regularity and order in administration have not yet been established in any Government, and unbroken popular tranquillity has not yet been attained in even the most advanced condition of human society. The machinery of our system is necessarily complex. A pivot may fall out here, a lever may be displaced there, a wheel may fall out of gearing elsewhere, but the machinery will soon recover its regularity and move on just as before, with even better adaptation and adjustment to overcome new obstructions.

There are many well-disposed persons who are alarmed at the occurrence of any such disturbance. The failure of a legislative body to organize is to their apprehension a fearful omen, and an extra-constitutional assemblage to consult upon public affairs is with them cause for desperation. Even Senators speak of the Union as if it existed only by consent, and, as it seems to be implied, by the assent of the Legislatures of the States. On the contrary, the Union was not founded in voluntary choice, nor does it exist by voluntary consent.

A Union was proposed to the colonies by Franklin and others, in 1754; but such was their aversion to an abridgment of their own importance, respectively, that it was rejected even under the pressure of a disastrous invasion by France.

A Union of choice was proposed to the colonies in 1775; but so strong was their opposition that they went through and through the war of Independence without having established more than a mere council of consultation.

But with independence came enlarged interests of agriculture—absolutely new interests of manufactures—interests of commerce, of fisheries, of navigation, of a common domain, of common debts, of common revenues and taxation, of the administration of justice, of public defence, of public honor; in short, interests of common nationality and sovereignty—interests which at last compelled the adoption of a more perfect union—a National Government.

The genius, talents, and learning of Hamilton, of Jay, and of Madison, surpassing perhaps the intellectual power ever exerted before for the establishment of a Government, combined with the serene but mighty influence of Washington, were only sufficient to secure the reluctant adoption of the Constitution that is now the object of all our affections and of the hopes of mankind. No wonder that the conflicts in which that Constitution was born, and the almost desponding solemnity of Washington, in his Farewell Address, impressed his countrymen and mankind with a profound distrust of its perpetuity! No wonder that while the murmurs of that day are yet ringing in our ears, we have cherished that distrust, with pious reverence, as a national and patriotic sentiment!

But it is time to prevent the abuses of that sentiment. It is time to shake off that fear, for fear is always weakness. It is time to remember that Government, even when it arises by chance or accident, and is administered capriciously and oppressively, is ever the strongest of all human institutions, surviving many social and ecclesiastical changes and convulsions, and that this Constitution of ours has all the inherent strength common to Governments in general, and added to them has also the solidity and firmness derived from broader and deeper foundations in national justice, and a better civil adaptation to promote the welfare and happiness of mankind.

The Union, the creature of necessities, physical, moral, social, and political, endures by virtue of the same necessities; and these necessities are stronger than when it was produced—stronger by the greater amplitude of territory now covered by it—stronger by the sixfold increase of the society living under its beneficent protection—stronger by the augmentation ten thousand times of the fields, the workshops, the mines, and the ships of that society; of its productions of the sea, of the plough, of the loom, and of the anvil, in their constant circle of internal and international exchange—stronger in the long rivers penetrating regions before unknown—stronger in all the artificial roads, canals, and other channels and avenues essential not only to trade but to defence—stronger in steam navigation, in steam locomotion on the land, and in telegraph communications, unknown when the Constitution was adopted—stronger in the freedom and in the growing empire of the seas—stronger in the element of national

honor in all lands, and stronger than all in the now settled habits of veneration and affection for institutions so stupendous and so useful.

The Union, then, *is*, not because merely that men choose that it shall be, but because some Government must exist here, and no other Government than this can. If it could be dashed to atoms by the whirlwind, the lightning, or the earthquake, to-day, it would rise again in all its just and magnificent proportions to-morrow.

This nation is a globe still accumulating upon accumulation, not a dissolving sphere.

I have heard somewhat here, and almost for the first time in my life, of divided allegiance—of allegiance to the South and to the Union—of allegiance to States severally and to the Union. Sir, if sympathies with State emulation and pride of achievement could be allowed to raise up another sovereign to divide the allegiance of a citizen of the United States, I might recognise the claims of the State to which, by birth and gratitude, I belong—to the State of Hamilton and Jay, of Schuyler, of the Clintons, and of Fulton—the State which, with less than two hundred miles of natural navigation connected with the ocean, has, by her own enterprise, secured to herself the commerce of the continent, and is steadily advancing to the command of the commerce of the world. But for all this I know only one country and one sovereign—the United States of America and the American People. And such as my allegiance is, is the loyalty of every other citizen of the United States. As I speak, he will speak when his time arrives. He knows no other country, and no other sovereign. He has life, liberty, property, and precious affections, and hopes for himself and for his posterity, treasured up in the ark of the Union. He knows as well and feels as strongly as I do that this Government is his own Government; that he is a part of it; that it was established for him, and that it is maintained by him; that it is the only truly wise, just, free, and equal Government that has ever existed; that no other Government could be so wise, just, free, and equal; and that it is safer and more beneficent than any which time or change could bring into its place.

You may tell me, sir, that although all this may be true, yet the trial of faction has not yet been made. Sir, if the trial of faction has not been made, it has not been because faction has not always existed, and has not always menaced a trial, but because faction could find no fulcrum on which to place the lever to subvert the Union, as it can find no fulcrum now; and in this is my confidence. I would not rashly provoke the trial; but I will not suffer a fear, which I have not, to make me compromise one sentiment, one principle of truth or justice, to avert a danger that all experience teaches me is purely chimerical. Let, then, those who distrust the Union make compromises to save it. I shall not impeach their wisdom, as I certainly cannot their patriotism; but indulging no such apprehensions myself, I shall vote for the admission of California directly, without conditions, without qualifications, and without compromise.

For the vindication of that vote I look not to the verdict of the passing hour, disturbed as the public mind now is by conflicting interests and passions, but to that period, happily not far distant, when the vast regions over which we are now legislating shall have received their destined inhabitants.

While looking forward to that day, its countless generations seem to me to be rising up and passing in dim and shadowy review before us; and a voice comes forth from their serried ranks, saying, "Waste your treasures and your armies, if you will; raze your fortifications to the ground; sink your navies into the sea; transmit to us even a dishonored name, if you must; but the soil you hold in trust for us—give it to us free. You found it free, and conquered it to extend a better and surer freedom over it. Whatever choice you have made for yourselves, let us have no partial freedom; let us all be free: let the reversion of your broad domain descend to us unincumbered, and free from the calamities and the sorrows of human bondage."

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SPEECH OF MR. WEBSTER

ON

MR. CLAY'S RESOLUTIONS.

DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH 7, 1850.

SECOND EDITION.

The VICE PRESIDENT. The resolutions submitted by the Senator from Kentucky were made the special order of the day at 12 o'clock. The Senator from Wisconsin (Mr. WALKER) has the floor.

Mr. WALKER. Mr. President, this vast audience has not assembled to hear me; and there is but one man, in my opinion, who can assemble such an audience. They expect to hear him, and I feel it to be my duty, as it is my pleasure, to give the floor, therefore, to the Senator from Massachusetts. I understand it is immaterial to him upon which of these questions he speaks, and therefore I will not move to postpone the special order.

Mr. WEBSTER. I beg to express my obligations to my friend from Wisconsin, (Mr. WALKER,) as well as to my friend from New York, (Mr. SEWARD,) for their courtesy in allowing me to address the Senate this morning.

Mr. President, I wish to speak to-day, not as a Massachusetts man, nor as a Northern man, but as an American, and a member of the Senate of the United States. It is fortunate that there is a Senate of the United States; a body, not yet moved from its propriety, not lost to a just sense of its own dignity, and its own high responsibilities, and a body to which the country looks, with confidence, for wise, moderate, patriotic, and healing counsels. It is not to be denied that we live in the midst of strong agitations, and are surrounded by very considerable dangers to our institutions and government. The imprisoned winds are let loose. The East, the North, and the stormy South, combine to throw the whole ocean into commotion, to toss its billows to the skies, and disclose its profoundest depths. I do not affect to regard myself, Mr. President, as holding, or as fit to hold, the helm in this combat with the political elements; but I have a duty to perform, and I mean to perform it with fidelity, not without a sense of existing dangers, but not without hope. I have a part to act, not for my own security or safety, for I am looking out for no fragment upon which to float away from the wreck, if wreck there must be, but for the good of the whole, and the preservation of all; and there is that which will keep me to my duty during this struggle, whether the sun and the stars shall appear, or shall not appear, for many days. I speak to-day for the preservation of the Union. "Hear me for my cause." I speak to-day, out of a solicitous and anxious heart, for the restoration to the country of that quiet and that harmony, which make the blessings of this Union so rich and so dear to us all. These are the topics that I propose to myself to discuss; these are the motives, and the sole motives, that influence me in the wish to communicate my opinions to the Senate and the country; and if I can do any thing, however little, for the promotion of these ends, I shall have accomplished all that I expect.

Mr. President, it may not be amiss to recur very briefly to the events which, equally sudden and extraordinary, have brought the political condition of the country to what it now is. In May, 1846, the United States declared war against Mexico. Our armies, then on the frontiers, entered the provinces of that republic, met and defeated all her troops, penetrated her mountain passes, and occupied her capital. The marine force of the United States took possession of her forts and her towns, on the Atlantic and on the Pacific. In less than two years, a treaty was negotiated, by which Mexico ceded to the United States a vast territory, extending seven or eight hundred miles along the shores of the Pacific, and reaching back over the mountains, and across the desert, until it joins the frontier of the State of Texas. It so happened, in the distracted and feeble state of the Mexican Government, that, before the declaration of war by the United States against Mexico had become known in California, the people of California, under the lead of American officers, overthrew the existing provincial government of California, the Mexican authorities, and run up an independent flag. When the news arrived at St. Francisco that war had been declared by the United States against Mexico, this independent flag was pulled down and the stars and stripes of this Union hoisted in its stead. So, sir, before the war was over, the forces of the United States, military and naval, had possession of San Francisco and Upper California, and a great rush of emigrants from various parts of the world took place into California in 1846 and 1847. But now, behold another wonder.

In January of 1848, the Mormons, or some of them, made a discovery of an extraordinarily rich mine of gold, or, rather, of a very great quantity of gold, hardly fit to be called a mine, for it was spread near the surface, on the lower part of the South, or American, branch of the Sacramento. They seem to have attempted to conceal their discovery for some time; but soon another discovery,

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perhaps of greater importance, was made of gold, in another part of the American branch of the Sacramento, and near Sutter's fort, as it is called. The fame of these discoveries spread far and wide. They inflamed more and more the spirit of emigration towards California, which had already been excited; and persons crowded in hundreds, and flocked towards the bay of San Francisco. This, as I have said, took place in the winter and spring of 1848. The digging commenced in the spring of that year, and from that time to this the work of searching for gold has been prosecuted with a success not heretofore known in the history of this globe. We all know, sir, how incredulous the American public was at the accounts which reached us, at first, of these discoveries; but we all know, now, that these accounts received, and continue to receive, daily confirmation, and down to the present moment I suppose the assurances are as strong, after the experience of these several months, of mines of gold apparently inexhaustible in the regions near San Francisco, in California, as they were at any period of the earlier dates of the accounts. It so happened, sir, that, although after the return of peace, it became a very important subject for legislative consideration and legislative decision, to provide a proper territorial government for California, yet differences of opinion in the counsels of the Government prevented the establishment of any such territorial government, at the last session of Congress. Under this state of things, the inhabitants of San Francisco and California, then amounting to a great number of people, in the summer of last year, thought it to be their duty to establish a local government. Under the proclamation of General Riley, the people chose delegates to a Convention; that Convention met at Monterey. They formed a constitution for the State of California, and it was adopted by the people of California in their primary assemblages. Desirous of immediate connection with the United States, its Senators were appointed and Representatives chosen, who have come hither, bringing with them the authentic constitution of the State of California; and they now present themselves, asking, in behalf of their State, that it may be admitted into this Union as one of the United States. This constitution, sir, contains an express prohibition against slavery, or involuntary servitude, in the State of California. It is said, and I suppose truly, that of the members who composed that Convention some sixteen were natives of, and had been residents in, the slaveholding States, about twenty-two were from the non-slaveholding States, and the remaining ten members were either native Californians or old settlers in that country. This prohibition against slavery, it is said, was inserted with entire unanimity.

Mr. Hale. Will the Senator give way until order is restored?

The Vice-President. The Sergeant-at Arms will see that order is restored, and no more persons admitted to the floor.

Mr. Cass. I trust the scene of the other day will not be repeated. The Sergeant-at-Arms must display more energy in suppressing this disorder.

Mr. Hale. The noise is outside of the door.

Mr. Webster. And it is this circumstance, sir, the prohibition of slavery by that Convention, which has contributed to raise, I do not say it has wholly raised, the dispute as to the propriety of the admission of California into the Union under this constitution. It is not to be denied, Mr. President, nobody thinks of denying, that, whatever reasons were assigned at the commencement of the late war with Mexico, it was prosecuted for the purpose of the acquisition of territory, and under the alleged argument that the cession of territory was the only form in which proper compensation could be made to the United States by Mexico, for the various claims and demands, which the people of this country had against that government. At any rate, it will be found that President Polk's message, at the commencement of the session of December, 1847, avowed that the war was to be prosecuted until some acquisition of territory should be made. And, as the acquisition was to be south of the line of the United States, in warm climates and countries, it was naturally, I suppose, expected by the South, that whatever acquisitions were made in that region would be added to the slaveholding portion of the United States. Very little of accurate information was possessed of the real physical character, either of California or New Mexico; and events have turned out as was not expected; both California and New Mexico are likely to come in as free; and therefore some degree of disappointment and surprise has resulted. In other words, it is obvious that the question which has so long harassed the country, and at some times very seriously alarmed the minds of wise and good men, has come upon us for a fresh discussion; the question of slavery in these United States.

Now, sir, I propose, perhaps at the expense of some detail and consequent detention of the Senate, to review historically this question, which, partly in consequence of its own importance, and partly, perhaps mostly, in consequence of the manner in which it has been discussed in one and the other portion of the country, has been a source of so much alienation and unkind feeling.

We all know, sir, that slavery has existed in the world from time immemorial. There was slavery, in the earliest periods of history, in the Oriental nations. There was slavery among the Jews; the theocratic government of that people ordained no injunction against it. There was slavery among the Greeks; and the ingenious philosophy of the Greeks found, or sought to find, a justification for it exactly upon the grounds which have been assumed for such a justification in this country; that is, a natural and original difference among the races of mankind, and the inferiority of the black or colored race to the white. The Greeks justified their system of slavery upon that idea, precisely. They held the African, and in some parts the Asiatic, tribes to be inferior to the white race; but they did not show, I think, by any close process of logic, that, if this were true, the more intelligent and the stronger had therefore a right to subjugate the weaker.

The more manly philosophy and jurisprudence of the Romans placed the justification of slavery on entirely different grounds.

The Roman jurists, from the first and down to the fall of the empire, admitted that slavery was

against the natural law, by which, as they maintained, all men of whatsoever clime, color, or capacity were equal; but they justified slavery, first, upon the ground and authority of the law of nations, arguing, and arguing truly, that at that day the conventional law of nations admitted that captives in war, whose lives, according to the notions of the times, were at the absolute disposal of the captors, might, in exchange for exemption from death, be made slaves for life, and that such servitude might descend to their posterity. The jurists of Rome also maintained that by the civil law there might be servitude or slavery, personal and hereditary; first, by the voluntary act of an individual who might sell himself into slavery; secondly, by his being received into a state of slavery by his creditors in satisfaction of his debts; and, thirdly, by being placed in a state of servitude or slavery for crime. At the introduction of Christianity, the Roman world was full of slaves, and I suppose there is to be found no injunction against that relation between man and man, in the teachings of the Gospel of Jesus Christ, or of any of his Apostles. The object of the instruction imparted to mankind by the founder of Christianity was to touch the heart, purify the soul, and improve the lives of individual men. That object went directly to the first fountain of all political and all social relations of the human race, as well as of all true religious feeling, the individual heart and mind of man.

Now, sir, upon the general nature, and character, and influence of slavery, there exists a wide difference between the Northern portion of this country and the Southern. It is said on the one side that, if not the subject of any injunction or direct prohibition in the New Testament, slavery is a wrong; that it is founded merely in the right of the strongest; and that it is an oppression, like unjust wars, like all those conflicts by which a mighty nation subjects a weaker nation to its will; and that slavery, in its nature, whatever may be said of it in the modifications which have taken place, is not in fact according to the meek spirit of the Gospel. It is not "kindly affectioned;" it does not "seek another's, and not its own;" it does not "let the oppressed go free." These are sentiments that are cherished, and recently with greatly augmented force, among the people of the Northern States. They have taken hold of the religious sentiment of that part of the country, as they have more or less taken hold of the religious feelings of a considerable portion of mankind. The South, upon the other side, having been accustomed to this relation between the two races all their lives, from their birth; having been taught, in general, to treat the subjects of this bondage with care and kindness, and I believe, in general, feeling for them great care and kindness, have not taken the view of the subject which I have mentioned. There are thousands of religious men, with consciences as tender as any of their brethren at the North, who do not see the unlawfulness of slavery; and there are more thousands, perhaps, that, whatsoever they may think of it in its origin, and as a matter depending upon natural right, yet take things as they are, and, finding slavery to be an established relation of the society in which they live, can see no way in which, let their opinions on the abstract question be what they may, it is in the power of the present generation to relieve themselves from this relation. And, in this respect, candor obliges me to say, that I believe they are just as conscientious, many of them, and the religious people all of them, as they are in the North who hold different opinions.

Why, sir, the honorable Senator from South Carolina, the other day, alluded to the separation of that great religious community, the Methodist Episcopal Church. That separation was brought about by differences of opinion upon this particular subject of slavery. I felt great concern, as that dispute went on, about the result, and I was in hopes that the difference of opinion might be adjusted, because I looked upon that religious denomination as one of the great props of religion and morals, throughout the whole country, from Maine to Georgia, and westward, to our utmost western boundary. The result was against my wishes and against my hopes. I have read all their proceedings, and all their arguments; but I have never yet been able to come to the conclusion that there was any real ground for that separation; in other words, that no good could be produced by that separation. I must say I think there was some want of candor and charity. Sir, when a question of this kind seizes on the religious sentiments of mankind, and comes be to discussed in religious assemblies of the clergy and laity, there is always to be expected, or always to be feared, a great degree of excitement. It is in the nature of man, manifested by his whole history, that religious disputes are apt to become warm, as men's strength of conviction is proportionate to their views of the magnitude of the questions. In all such disputes, there will sometimes men be found with whom every thing is absolute, absolutely wrong, or absolutely right. They see the right clearly; they think others ought so to see it, and they are disposed to establish a broad line of distinction between what is right and what is wrong. And they are not seldom willing to establish that line upon their own convictions of truth and justice; and are ready to mark and guard it by placing along it a series of dogmas, as lines of boundary on the earth's surface are marked by posts and stones. There are men who, with clear perceptions, as they think, of their own duty, do not see how too hot a pursuit of one duty may involve them in the violation of others, or how too warm an embracement of one truth may lead to a disregard of other truths equally important. As I heard it stated strongly, not many days ago, these persons are disposed to mount upon some particular duty as upon a war horse, and to drive furiously, on and upon, and over all other duties that may stand in the way. There are men who, in times of that sort, and in disputes of that sort, are of opinion that human duties may be ascertained with the exactness of mathematics. They deal with morals as with mathematics, and they think what is right may be distinguished from what is wrong with the precision of an algebraic equation. They have, therefore, none too much charity towards others who differ from them. They are apt, too, to think that nothing is good but what is perfect, and that there are no compromises or modifications to be made in submission to difference of opinion, or in deference to other men's judgment. If their perspicacious vision enables them to detect a spot on the face of the sun, they think that a good reason why the sun should be

struck down from heaven. They prefer the chance of running into utter darkness, to living in heavenly light, if that heavenly light be not absolutely without any imperfection. There are impatient men, too impatient always to give heed to the admonition of St. Paul, "that we are not to do evil that good may come;" too impatient to wait for the slow progress of moral causes in the improvement of mankind. They do not remember, that the doctrines and the miracles of Jesus Christ have, in eighteen hundred years, converted only a small portion of the human race; and among the nations that are converted to Christianity, they forget how many vices and crimes, public and private, still prevail, and that many of them, public crimes especially, which are so clearly offences against the Christian religion, pass without exciting particular indignation. Thus wars are waged, and unjust wars. I do not deny that there may be just wars. There certainly are; but it was the remark of an eminent person, not many years ago, on the other side of the Atlantic, that it was one of the greatest reproaches to human nature that wars were sometimes just. The defence of nations sometimes causes a just war against the injustice of other nations.

Now, sir, in this state of sentiment upon the general nature of slavery lies the cause of a great part of those unhappy divisions, exasperations, and reproaches, which find vent and support in different parts of the Union. Slavery does exist in the United States. It did exist in the States before the adoption of this Constitution, and at that time.

And now let us consider, sir, for a moment, what was the state of sentiment, North and South, in regard to slavery, at the time this Constitution was adopted. A remarkable change has taken place since; but what did the wise and great men of all parts of the country think of slavery, then? In what estimation did they hold it at the time when this Constitution was adopted? Now, it will be found, sir, if we will carry ourselves by historical research back to that day, and ascertain men's opinions by authentic records still existing among us, that there was no great diversity of opinion between the North and the South upon the subject of slavery. And it will be found that both parts of the country held it equally an evil, a moral and political evil. It will not be found, that either at the North or at the South, there was much, though there was some, invective against slavery as inhuman and cruel. The great ground of objection to it was political; that it weakened the social fabric; that, taking the place of free labor, society became less strong and labor was less productive; and, therefore, we find from all the eminent men of the time the clearest expression of their opinion that slavery was an evil. And they ascribed its existence here, not without truth, and not without some acerbity of temper and force of language, to the injurious policy of the mother country, who, to favor the navigator, had entailed these evils upon the colonies. I need hardly refer, sir, particularly to the publications of the day. They are matters of history on the record. The eminent men, the most eminent men, and nearly all the conspicuous politicians of the South, held the same sentiments; that slavery was an evil, a blight, a blast, a mildew, a scourge, and a curse. There are no terms of reprobation of slavery so vehement in the North of that day as in the South. The North was not so much excited against it as the South; and the reason is, I suppose, because there was much less of it at the North, and the people did not see, or think they saw, the evils so prominently as they were seen, or thought to be seen, at the South.

Then, sir, when this Constitution was framed, this was the light in which the Convention viewed it. The Convention reflected the judgment and sentiments of the great men of the South. A member of the other House, whom I have not the honor to know, in a recent speech, has collected extracts from these public documents. They prove the truth of what I am saying, and the question then was, how to deal with it, and how to deal with it as an evil? Well, they came to this general result. They thought that slavery could not be continued in the country, if the importation of slaves were made to cease, and therefore they provided that after a certain period the importation might be prevented, by the act of the new Government. Twenty years was proposed by some gentleman, a Northern gentleman, I think, and many of the Southern gentlemen opposed it as being too long. Mr. Madison especially was something warm against it. He said it would bring too much of this mischief into the country to allow the importation of slaves for such a period. Because we must take along with us, in the whole of this discussion, when we are considering the sentiments and opinions in which the constitutional provision originated, that the conviction of all men was, that if the importation of slaves ceased, the white race would multiply faster than the black race, and that slavery would therefore gradually wear out and expire. It may not be improper here to allude to that, I had almost said, celebrated opinion of Mr. Madison. You observe, sir, that the term slave or slavery is not used in the Constitution. The Constitution does not require that "fugitive slaves" shall be delivered up. It requires that "persons bound to service in one State, and escaping into another, shall be delivered up." Mr. Madison opposed the introduction of the term slave, or slavery, into the Constitution; for, he said that he did not wish to see it recognised by the Constitution of the United States of America that there could be property in men. Now, sir, all this took place at the Convention in 1787; but, connected with this, concurrent and cotemporaneous, is another important transaction not sufficiently attended to. The Convention for framing this Constitution assembled in Philadelphia in May, and sat until September, 1787. During all that time, the Congress of the United States was in session at New York. It was a matter of design, as we know, that the Convention should not assemble in the same city where Congress was holding its sessions. Almost all the public men of the country, therefore, of distinction and eminence, were in one or the other of these two assemblies; and I think it happened, in some instances, that the same gentlemen were members of both. If I mistake not, such was the case of Mr. Rufus King, then a member of Congress from Massachusetts, and at the same time a member of the Convention to frame the Constitution. Now, it was in the summer of 1787, the very time when the Convention in Philadelphia was framing this Constitution, that the Congress in New York was framing the ordinance of 1787. They passed that ordinance on the 13th July, 1787, at New

York, the very month, perhaps the very day, on which these questions about the importation of slaves and the character of slavery, were debated in the Convention at Philadelphia. And, so far as we can now learn, there was a perfect concurrence of opinion between these respective bodies; and it resulted in this ordinance of 1787, excluding slavery as to all the territory over which the Congress of the United States had jurisdiction, and that was, all the territory northwest of the Ohio. Three years before, Virginia and other States had made a cession of that great territory to the United States. And a most magnificent act it was. I never reflect upon it without a disposition to do honor and justice, and justice would be the highest honor, to Virginia, for the cession of her northwestern territory. I will say, sir, it is one of her fairest claims to the respect and gratitude of the United States, and that perhaps it is only second to that other claim which attaches to her; that, from her counsels, and from the intelligence and patriotism of her leading statesmen, proceeded the first idea put into practice of the formation of a general constitution of the United States. Now, sir, the ordinance of 1787 was applied thus to the whole territory over which the Congress of the United States had jurisdiction. It was adopted two years before the Constitution of the United States went into operation; because the ordinance took effect immediately on its passage, while the Constitution of the United States, having been framed, was to be sent to the States to be adopted by their Conventions; and then a Government was to be organized under it. This ordinance, then, was in operation and force when the Constitution was adopted and the Government put in motion, in April, 1789.

Mr. President, three things are quite clear, as historical truths. One is, that there was an expectation that, on the ceasing of the importation of slaves from Africa, slavery would begin to run out here. That was hoped and expected. Another is, that, as far as there was any power in Congress to prevent the spread of slavery in the United States, that power was executed in the most absolute manner, and to the fullest extent. An honorable member, whose health does not allow him to be here to-day—

A Senator. He is here. (Referring to Mr. Calhoun.)

Mr. Webster. I am very happy to hear that he is; may he long be here, and in the enjoyment of health to serve his country! The honorable member said, the other day, that he considered this ordinance as the first, in the series of measures, calculated to enfeeble the South and deprive them of their just participation in the benefits and privileges of this Government. He says very properly that it was enacted under the old confederation and before this Constitution went into effect; but, my present purpose is only to say, Mr. President, that it was established with the entire and unanimous concurrence of the whole South. Why, there it stands! The vote of every State in the Union was unanimous in favor of the ordinance, with the exception of a single individual vote, and that individual vote was given by a Northern man. But, sir, the ordinance abolishing, or rather prohibiting, slavery northwest of the Ohio, has the hand and seal of every Southern member in Congress. So this ordinance was no aggression of the North on the south.

The other and third clear historical truth is, that the Convention meant to leave slavery, in the States, as they found it, entirely under the authority and control of the States themselves.

This was the state of things, sir, and this the state of opinion, under which those very important matters were arranged, and those three important things done; that is, the establishment of the Constitution with a recognition of slavery as it existed in the States, the establishment of the ordinance prohibiting, to the full extent of all territory owned by the United States, the introduction of slavery into that territory, while leaving to the States all power over slavery, in their own limits; and creating a power, in the new Government, to put an end to the importation of slaves, after a limited period. And here, sir, we may pause. We may reflect for a moment upon the entire coincidence and concurrence of sentiment, between the North and the South, upon all these questions, at the period of the adoption of the Constitution. But opinions, sir, have changed, greatly changed, changed North, and changed South. Slavery is not regarded in the South now as it was then. I see an honorable member of this body paying me the honor of listening to my remarks, (Mr. Mason;) he brings to me, sir, freshly and vividly, what I have learned of his great ancestor, so much distinguished in his day and generation, so worthy to be succeeded by so worthy a grandson, with all the sentiments he expressed in the Convention in Philadelphia.

Here we may pause. There was, if not an entire unanimity, a general concurrence of sentiment, running through the whole community, and especially entertained by the eminent men of all parts of the country. But soon a change began, at the North and the South, and a severance of opinion showed itself; the North growing much more warm and strong against slavery, and the South growing much more warm and strong in its support. Sir, there is no generation of mankind whose opinions are not subject to be influenced by what appears to them to be their present, emergent, and exigent interests. I impute to the South no particularly selfish view in the change which has come over her. I impute to her certainly no dishonest view. All that has happened has been natural. It has followed those causes which always influence the human mind and operate upon it. What, then, have been the causes which have created so new a feeling in favor of slavery in the South, which have changed the whole nomenclature of the South on that subject, so that, from being thought and described in the terms I have mentioned and will not repeat, it has now become an institution, a cherished institution, in that quarter; no evil, no scourge, but a great religious, social, and moral blessing, as I think I have heard it latterly spoken of? I suppose this, sir, is owing to the sudden uprising and rapid growth of the COTTON plantations of the South. So far as any motive consistent with honor, justice, and general judgment could act, it was the COTTON interest that gave a new desire to promote slavery, to spread it and to use its labor. I again say that that was produced by causes which we must always expect to produce like effects; the whole interest of the South became connected, more or less, with it. If we look back to the history of the commerce of this country at the early years of this

Government, what were our exports? Cotton was hardly, or but to a very limited extent, known. The tables will show that the exports of cotton for the years 1790 and '91 were not more than forty or fifty thousand dollars a year. It has gone on increasing rapidly, until it may now, perhaps, in a season of great product and high prices, amount to a hundred millions of dollars. In the years I have mentioned, there was more of wax, more of indigo, more of rice, more of almost every article of export from the South, than of cotton. I think it is true, when Mr. Jay negotiated the treaty of 1794 with England, that he did not know that cotton was exported at all from the United States; and I have heard it said, also, that the custom-house in London refused to admit cotton, upon an allegation that it could not be an American production, there being, as they supposed, no cotton raised in America. They would hardly think so now!

Well, sir, we know what followed. The age of cotton became the golden age of our Southern brethren. It gratified their desire for improvement and accumulation, at the same time that it excited it. The desire grew by what it fed upon, and there soon came to be an eagerness for other territory, a new area or new areas, for the cultivation of the cotton crop; and measures leading to this result were brought about rapidly, one after another, under the lead of Southern men at the head of the Government, they having a majority in both branches to accomplish their ends. The honorable member from South Carolina observed that there has been a majority all along in favor of the North. If that be true, sir, the North has acted either very liberally and kindly, or very weakly; for they never exercised that majority efficiently five times in the history of the Government when a division, or trial of strength, arose. Never. Whether they were out-generaled, or whether it was owing to other causes, I shall not stop to consider; but no man acquainted with the history of the country can deny, that the general lead in the politics of the country for three fourths of the period that has elapsed since the adoption of the Constitution, has been a Southern lead. In 1802, in pursuit of the idea of opening a new cotton region, the United States obtained a cession from Georgia of the whole of her western territory, now embracing the rich and growing State of Alabama. In 1803, Louisiana was purchased from France, out of which the States of Louisiana, Arkansas, and Missouri, have been framed, as slaveholding States. In 1819, the cession of Florida was made, bringing in another region of slaveholding property and territory. Sir, the honorable member from South Carolina thought he saw in certain operations of the Government, such as the manner of collecting the revenue, and the tendency of measures calculated to promote emigration into the country, what accounts for the more rapid growth of the North than the South. He ascribes that more rapid growth, not to the operation of time, but to the system of government, administration, established under this Constitution. That is matter of opinion. To a certain extent it may be true; but it does seem to me that if any operation of the Government could be shown in any degree to have promoted the population, and growth, and wealth of the North, it is much more sure that there are sundry important and distinct operations of the Government, about which no man can doubt, tending to promote, and which absolutely have promoted, the increase of the slave interest and the slave territory of the South. Allow me to say that it was not time that brought in Louisiana; it was the act of men. It was not time that brought in Florida; it was the act of men. And lastly, sir, to complete those acts of men which have contributed so much to enlarge the area and the sphere of the institution of slavery, Texas, great and vast and illimitable Texas, was added to the Union as a slave State in 1845; and that, sir, pretty much closed the whole chapter, and settled the whole account. That closed the whole chapter, that settled the whole account, because the annexation of Texas, upon the conditions and under the guaranties upon which she was admitted, did not leave within the control of this Government an acre of land, capable of being cultivated by slave labor, between this Capitol and the Rio Grande or the Nueces, or whatever is the proper boundary of Texas, not an acre. From that moment the whole country, from this place to the western boundary of Texas, was fixed, pledged, fastened, decided, to be slave territory forever, by the solemn guaranties of law. And I now say, sir, as the proposition upon which I stand this day, and upon the truth and firmness of which I intend to act until it is overthrown, that there is not at this moment within the United States, or any territory of the United States, a single foot of land, the character of which, in regard to its being free-soil territory or slave territory, is not fixed by some law, and some irrepealable law, beyond the power of the action of the Government. Now, is it not so with respect to Texas? Why, it is most manifestly so. The honorable member from South Carolina, at the time of the admission of Texas, held an important post in the Executive Department of the Government; he was Secretary of State. Another eminent person of great activity and adroitness in affairs, I mean the late Secretary of the Treasury, (Mr. WALKER,) was a conspicuous member of this body, and took the lead in the business of annexation, in co-operation with the Secretary of State; and I must say that they did their business faithfully and thoroughly; there was no botch left in it. They rounded it off, and made as close joiner-work as ever was exhibited. Resolutions of annexation were brought into Congress fitly joined together, compact, firm, efficient, conclusive upon the great object which they had in view, and those resolutions passed.

Allow me to read a part of these resolutions. It is the third clause of the second section of the resolution of the 1st March, 1845, for the admission of Texas, which applies to this part of the case. That clause reads in these words:

"New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the Territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution. And such States as may be formed out of that portion of said Territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may

desire; and in such State or States as shall be formed out of said Territory north of said Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited."

Now what is here stipulated, enacted, secured? It is, that all Texas south of 36° 30′, which is nearly the whole of it, shall be admitted into the Union as a slave State. It was a slave State, and therefore came in as a slave State; and the guaranty is, that new States shall be made out of it, and that such States as are formed out of that portion of Texas lying south of 36° 30′ may come in as slave States to the number of four, in addition to the State then in existence, and admitted at that time by these resolutions. I know no form of legislation which can strengthen this. I know no mode of recognition that can add a tittle of weight to it. I listened respectfully to the resolutions of my honorable friend from Tennessee, (Mr. Bell.) He proposed to recognise that stipulation with Texas. But any additional recognition would weaken the force of it; because it stands here on the ground of a contract, a thing done for a consideration. It is a law founded on a contract with Texas, and designed to carry that contract into effect. A recognition, now, founded not on any consideration or any contract, would not be so strong as it now stands on the face of the resolution. Now I know no way, I candidly confess, in which this Government, acting in good faith, as I trust it always will, can relieve itself from that stipulation and pledge, by any honest course of legislation whatever. And, therefore, I say again that, so far as Texas is concerned, the whole of Texas south of 36° 30′, which, I suppose, embraces all the territory capable of slave cultivation, there is no land, not an acre, the character of which is not established by law, a law which cannot be repealed without the violation of a contract, and plain disregard of the public faith.

I hope, sir, it is now apparent that my proposition, so far as it respects Texas, has been maintained; and that the provision in this article is clear and absolute; and it has been well suggested by my friend from Rhode Island that that part of Texas which lies north of thirty-four degrees of north latitude, and which may be formed into free States, is dependant, in like manner, upon the consent of Texas, herself a slave State.

Well, now, sir, how came this? How came it to pass, that within these walls, where it is said by the honorable member from South Carolina that the free States have always had a majority, this resolution of annexation, such as I have described it, found a majority in both Houses of Congress? Why, sir, it found that majority by the great number of Northern votes added to the entire Southern vote, or at least nearly the whole of the Southern votes. The aggregate was made up of Northern, and Southern votes. In the House of Representatives it stood, I think, about eighty Southern votes for the admission of Texas, and about fifty Northern votes for the admission of Texas. In the Senate the vote stood for the admission of Texas twenty-seven, and twenty-five against it; and of those twenty-seven votes, constituting a majority for the admission of Texas in this body, no less than thirteen came from the free States, and four of them were from New England. The whole of these thirteen Senators constituting, within a fraction, you see, of one-half of all the votes in this body for the admission of Texas, with its immeasurable extent of slave territory, were sent here by free States.

Sir, there is not so remarkable a chapter in our history of political events, political parties, and political men, as is afforded by this measure for the admission of Texas, with this immense territory, that a bird cannot fly over in a week. [Laughter.] Sir, New England, with some of her own votes, supported this measure. Three-fourths of the votes of liberty-loving Connecticut were given for it in the other House; and one-half here. There was one vote for it in Maine, but I am happy to say not the vote of the honorable member who addressed the Senate the day before yesterday, (Mr. Hamlin,) and who was then a Representative from Maine in the House of Representatives; but there was a vote or two from Maine, ay, and there was one vote for it from Massachusetts, given by a gentleman then representing, and now living in, the district in which the prevalence to some extent of free-soil sentiment for a couple of years or so has defeated the choice of any member to represent it in Congress. Sir, that body of Northern and Eastern men, who gave those votes at that time, are now seen taking upon themselves, in the nomenclature of politics, the appellation of the Northern Democracy. They undertook to wield the destinies of this empire, if I may call a republic an empire, and their policy was, and they persisted in it, to bring into this country, and under this Government, all the territory they could. They did it under pledges, absolute pledges to the slave interest in the case of Texas, and afterwards they lent their aid in bringing in these new conquests to take their chance for slavery or freedom. My honorable friend from Georgia, in March, 1847, moved the Senate to declare that the war ought not to be prosecuted for acquisition, for conquest, for the dismemberment of Mexico. The same Northern Democracy entirely voted against it. He did not get a vote from them. It suited the views, the patriotism, the elevated sentiments of the Northern Democracy to bring in a world here, among the mountains and valleys of California and New Mexico, or any other part of Mexico, and then quarrel about it; to bring it in, and then endeavor to put upon it the saving grace of the Wilmot proviso. There were two eminent and highly respectable gentlemen from the North and East, then leading gentlemen in the Senate—I refer, and I do so with entire respect, for I entertain for both of those gentlemen, in general, high regard, to Mr. Dix, of New York, and Mr. Niles, of Connecticut—who both voted for the admission of Texas. They would not have that vote any other way than as it stood; and they would have it as it did stand. I speak of the vote upon the annexation of Texas. Those two gentlemen would have the resolution of annexation just as it is, and they voted for it just as it is, and their eyes were all open to its true character. The honorable member who addressed us the other day from South Carolina, was then Secretary of State. His correspondence with Mr. Murphy, the chargé d'affaires of the United States in Texas, had been published. That correspondence was all before those gentlemen, and the Secretary had the boldness and candor to avow in that correspondence that the great object sought by the annexation of Texas was to strengthen the slave interest of the South. Why, sir, he said so, in so many words—

Mr. CALHOUN. Will the honorable Senator permit me to interrupt him for a moment?

Mr. WEBSTER. Certainly.

Mr. CALHOUN. I am very reluctant to interrupt the honorable gentleman; but, upon a point of so much importance, I deem it right to put myself *rectus in curia*. I did not put it upon the ground assumed by the Senator. I put it upon this ground: that Great Britain had announced to this country, in so many words, that her object was to abolish slavery in Texas, and through Texas to accomplish the abolishment of slavery in the United States and the world. The ground I put it on was, that it would make an exposed frontier, and, if Great Britain succeeded in her object, it would be impossible that that frontier could be secured against the aggressions of the abolitionists; and that this Government was bound, under the guaranties of the Constitution, to protect us against such a state of things.

Mr. WEBSTER. That comes, I suppose, sir, to exactly the same thing. It was, that Texas must be obtained for the security of the slave interest of the South.

Mr. CALHOUN. Another view is very distinctly given.

Mr. WEBSTER. That was the object set forth in the correspondence of a worthy gentleman not now living, who preceded the honorable member from South Carolina in the Department of State. There repose on the files of the Department of State, as I have occasion to know, strong letters from Mr. Upshur to the United States minister in England, and I believe there are some to the same minister from the honorable Senator himself, asserting to this effect the sentiments of this Government, viz: that Great Britain was expected not to interfere to take Texas out of the hands of its then existing Government, and make it a free country. But my argument, my suggestion is this; that those gentlemen who composed the Northern Democracy when Texas was brought into the Union, saw, with all their eyes, that it was brought in as a slave country, and brought in for the purpose of being maintained as slave territory to the Greek Kalends. I rather think the honorable gentleman who was then Secretary of State might, in some of his correspondence with Mr. Murphy, have suggested that it was not expedient to say too much about this object, lest it should create some alarm. At any rate, Mr. Murphy wrote to him, that England was anxious to get rid of the constitution of Texas, because it was a constitution establishing slavery; and that what the United States had to do, was to aid the people of Texas in upholding their constitution; but that nothing should be said, which should offend the fanatical men of the North. But, sir, the honorable member did avow this object himself, openly, boldly, and manfully; he did not disguise his conduct, or his motives.

Mr. CALHOUN. Never, never.

Mr. WEBSTER. What he means he is very apt to say.

Mr. CALHOUN. Always, always.

Mr. WEBSTER. And I honor him for it. This admission of Texas was in 1845. Then, in 1847, *flagrante bello* between the United States and Mexico, the proposition I have mentioned was brought forward by my friend from Georgia, and the Northern Democracy voted straight ahead against it. Their remedy was to apply to the acquisitions, after they should come in, the Wilmot proviso. What follows? These two gentlemen, worthy and honorable and influential men, and if they had not been they could not have carried the measure, these two gentlemen, members of this body, brought in Texas, and by their votes they also prevented the passage of the resolution of the honorable member from Georgia, and then they went home and took the lead in the Free-soil party. And there they stand, sir! They leave us here, bound in honor and conscience by the resolutions of annexation, they leave us here, to take the odium of fulfilling the obligations in favor of slavery, which they voted us into, or else the greater odium of violating those obligations, while they are at home making capital and rousing speeches for free-soil and no slavery. [Laughter.] And, therefore, I say, sir, that there is not a chapter in our history, respecting public measures and public men, more full of what should create surprise, more full of what does create, in my mind, extreme mortification, than that of the conduct of this Northern Democracy.

Mr. President, sometimes, when a man is found in a new relation to things around him and to other men, he says the world has changed, and that he has not changed. I believe, sir, that our self respect leads us often to make this declaration in regard to ourselves, when it is not exactly true. An individual is more apt to change, perhaps, than all the world around him. But, under the present circumstances, and under the responsibility which I know I incur by what I am now stating here, I feel at liberty to recur to the various expressions and statements, made at various times, of my own opinions and resolutions respecting the admission of Texas, and all that has followed. Sir, as early as 1836, or in the early part of 1837, there was conversation and correspondence between myself and some private friends, on this project of annexing Texas to the United States; and an honorable gentleman with whom I have had a long acquaintance, a friend of mine, now perhaps in this chamber, I mean Gen. Hamilton, of South Carolina, was knowing to that correspondence. I had voted for the recognition of Texan independence, because I believed it was an existing fact, surprising and astonishing as it was, and I wished well to the new republic: but I manifested from the first utter opposition to bringing her, with her slave territory, into the Union. I happened, in 1837, to meet friends in New York, on some political occasion, and I then stated my sentiments upon the subject. It was the first time that I had occasion to advert to it; and I will ask a friend near me to do me the favor to read an extract from the speech, for the Senate may find it rather tedious to listen to the whole of it. It was delivered in Niblo's Garden in 1837.

Mr. GREENE then read the following extract from the speech of Mr. Webster, to which he referred:

"Gentlemen, we all see that, by whomsoever possessed, Texas is likely to be a slaveholding coun-

try; and I frankly avow my entire unwillingness to do anything which shall extend the slavery of the African race on this continent, or add other slaveholding States to the Union.

"When I say that I regard slavery in itself as a great moral, social, and political evil, I only use language which has been adopted by distinguished men, themselves citizens of slaveholding States.

"I shall do nothing, therefore, to favor or encourage its further extension. We have slavery already among us. The Constitution found it among us; it recognised it, and gave it solemn guarantics.

"To the full extent of these guaranties, we are all bound in honor, in justice, and by the Constitution. All the stipulations contained in the Constitution in favor of the slaveholding States, which are already in the Union, ought to be fulfilled, and, so far as depends on me, shall be fulfilled in the fulness of their spirit, and to the exactness of their letter. Slavery, as it exists in the States, is beyond the reach of Congress. It is a concern of the States themselves. They have never submitted it to Congress, and Congress has no rightful power over it.

"I shall concur, therefore, in no act, no measure, no menace, no indication of purpose, which shall interfere, or threaten to interfere, with the exclusive authority of the several States over the subject of slavery, as it exists within their respective limits. All this appears to me to be matter of plain and imperative duty.

"But when we come to speak of admitting new States, the subject assumes an entirely different aspect. Our rights and our duties are then both different. * * *

"I see, therefore, no political necessity for the annexation of Texas to the Union—no advantage to be derived from it; and objections to it of a strong, and, in my judgment, of a decisive character."

Mr. Webster. I have nothing, sir, to add to, nor to take from, those sentiments. That speech, the Senate will perceive, was in 1837. The purpose of immediately annexing Texas at that time was abandoned or postponed; and it was not revived with any vigor for some years. In the mean time it had so happened that I had become a member of the Executive Administration, and was for a short period in the Department of State. The annexation of Texas was a subject of conversation, not confidential, with the President and heads of Departments, as well as with other public men. No serious attempt was then made, however, to bring it about. I left the Department of State in May, 1843, and shortly after I learned, though by means which were no way connected with official information, that a design had been taken up of bringing Texas, with her slave territory and population, into this Union. I was in Washington at the time, and persons are now here who will remember that we had an arranged meeting for conversation upon it. I went home to Massachusetts and proclaimed the existence of that purpose, but I could get no audience, and but little attention. Some did not believe it, and some were too much engaged in their own pursuits to give it any heed. They had gone to their farms, or to their merchandise, and it was impossible to arouse any sentiments in New England or in Massachusetts that should combine the two great political parties against this annexation; and indeed there was no hope of bringing the Northern Democracy into that view, for the leaning was all the other way. But, sir, even with Whigs, and leading Whigs, I am ashamed to say, there was a great indifference towards the admission of Texas with slave territory into this Union. The project went on. I was then out of Congress. The annexation resolutions passed the 1st of March, 1845; the Legislature of Texas complied with the conditions and accepted the guarantics; for the phraseology of the language of the resolution is, that Texas is to come in "upon the conditions and under the guaranties herein prescribed." I happened to be returned to the Senate in March, 1845, and was here in December, 1845, when the acceptance by Texas of the conditions proposed by Congress was communicated to us by the President, and an act for the consummation of the connection was laid before the two Houses. The connection was then not completed. A final law doing the deed of annexation ultimately had not been passed; and when it was put upon its final passage here, I expressed my opposition to it, and recorded my vote in the negative; and there that vote stands, with the observations that I made upon that occasion. It has happened that between 1837 and this time, on various occasions and opportunities, I have expressed my entire opposition to the admission of slaves States, or the acquisition of new slave territories, to be added to the United States. I know, sir, no change in my own sentiments or my own purposes in that respect. I will now again ask my friend from Rhode Island to read another extract from a speech of mine, made at a Whig Convention in Springfield, Massachusetts, in the month of September, 1847.

Mr. Greene here read the following extract:

"We hear much just now of a *panacea* for the dangers and evils of slavery and slave annexation, which they call the '*Wilmot proviso.*' That certainly is a just sentiment, but it is not a sentiment to found any new party upon. It is not a sentiment on which Massachusetts Whigs differ. There is not a man in this hall who holds to it more firmly than I do, nor one who adheres to it more than another.

"I feel some little interest in this matter, sir. Did not I commit myself in 1837 to the whole doctrine, fully, entirely? And I must be permitted to say that I cannot quite consent that more recent discoverers should claim the merit and take out a patent.

"I deny the priority of their invention. Allow me to say, sir, it is not their thunder." * *

"We are to use the first and last and every occasion which offers to oppose the extension of slave power.

"But I speak of it here, as in Congress, as a political question, a question for statesmen to act upon. We must so regard it. I certainly do not mean to say that it is less important in a moral point of view, that it is not more important in many other points of view; but, as a legislator, or in any official capacity, I must look at it, consider it, and decide it as a matter of political action."

Mr. Webster. On other occasions, in debates here, I have expressed my determination to vote

for no acquisition, or cession, or annexation, North or South, East or West. My opinion has been, that we have territory enough, and that we should follow the Spartan maxim, "improve, adorn what you have, seek no further." I think that it was in some observations that I made on the three million loan bill, that I avowed that sentiment. In short, sir, the sentiment has been avowed quite as often, in as many places, and before as many assemblies, as any humble sentiments of mine ought to be avowed.

But now, that, under certain conditions, Texas is in, with all her territory, as a slave State, with a solemn pledge, also, that if she shall be divided into many States, those States may come in as slave States south of 36° 30′, how are we to deal with this subject? I know no way of honest legislation, when the proper time comes for the enactment, but to carry into effect all that we have stipulated to do. I do not entirely agree with my honorable friend from Tennessee, (Mr. Bell,) that, as soon as the time comes when she is entitled to another representative, we should create a new State. The rule in regard to it I take to be this: that, when we have created new States out of Territories, we have generally gone upon the idea that when there is population enough to form a State, sixty thousand or some such thing, we would create a State; but it is quite a different thing when a State is divided, and two or more States made out of it. It does not follow, in such a case, that the same rule of apportionment should be applied. That, however, is a matter for the consideration of Congress, when the proper time arrives. I may not then be here. I may have no vote to give on the occasion, but I wish it to be distinctly understood, to-day, that, according to my view of the matter, this Government is solemnly pledged, by law and contract, to create new States out of Texas, with her consent, when her population shall justify and call for such a proceeding, and so far as such States are formed out of Texan territory lying south of 36° 30′, to let them come in as slave States. That is the meaning of the resolution which our friends, the Northern Democracy, have left us to fulfil; and I, for one, mean to fulfil it, because I will not violate the faith of the Government. What I mean to say is, that the time for the admission of new States formed out of Texas, the number of such States, their boundaries, and the requisite amounts of population, and other things connected with the admission, are in the free discretion of Congress, except this, to wit, that when new States, formed out of Texas, are to be admitted, they have a right, by legal stipulation and contract, to come in as slave States.

Now, as to California and New Mexico, I hold slavery to be excluded from those Territories by a law, even superior to that which admits and sanctions it in Texas. I mean the law of nature, of physical geography, the law of the formation of the earth. That law settles forever, with a strength beyond all terms of human enactment, that slavery cannot exist in California or New Mexico. Understand me, sir; I mean slavery as we regard it; slaves in gross, of the colored race, transferable by sale and delivery, like other property. I shall not discuss the point, but leave it to the learned gentlemen who have undertaken to discuss it; but I suppose there is no slave of that description in California now. I understand that *peonism*, a sort of penal servitude, exists there, or rather a sort of voluntary sale of a man and his offspring for debt, as it is arranged and exists in some parts of California and some provinces of Mexico. But what I mean to say is, that African slavery, as we see it among us, is as utterly impossible to find itself, or to be found in California and New Mexico, as any other natural impossibility. California and New Mexico are Asiatic, in their formation and scenery. They are composed of vast ridges of mountains of enormous height, with broken ridges and deep valleys. The sides of these mountains are barren, entirely barren; their tops capped by perennial snow. There may be in California, now made free by its constitution, and no doubt there are, some tracts of valuable land. But it is not so in New Mexico. Pray, what is the evidence which every gentleman must have obtained on this subject, from information sought by himself, or communicated by others. I have inquired and read all I could find, in order to acquire information on this important question. What is there in New Mexico that could by any possibility induce any body to go there with slaves? There are some narrow strips of tillable land on the borders of the rivers; but the rivers themselves dry up, before midsummer is gone. All that the people can do in that region, is to raise some little articles, some little wheat for their tortillas, and all that by irrigation. And who expects to see a hundred black men cultivating tobacco, corn, cotton, rice, or any thing else, on lands in New Mexico, made fertile only by irrigation? I look upon it, therefore, as a fixed fact, to use an expression current at this day, that both California and New Mexico are destined to be free, so far as they are settled at all, which I believe, especially in regard to New Mexico, will be very little for a great length of time; free by the arrangement of things by the Power above us. I have therefore to say, in this respect also, that this country is fixed for freedom, to as many persons as shall ever live in it, by as irrepealable and more irrepealable a law, than the law that attaches to the right of holding slaves in Texas; and I will say further, that if a resolution, or a law, were now before us to provide a territorial government for New Mexico, I would not vote to put any prohibition into it whatever. The use of such a prohibition would be idle, as it respects any effect it would have upon the Territory; and I would not take pains to re-affirm an ordinance of Nature, nor to re-enact the will of God. And I would put in no Wilmot proviso for the mere purpose of a taunt or a reproach. I would put into it no evidence of the votes of superior power, for no purpose but to wound the pride, even whether a just pride, a rational pride, or an irrational pride, to wound the pride of the gentlemen who belong to Southern States. I have no such object, no such purpose. They would think it a taunt, an indignity; they would think it to be an act taking away from them what they regard a proper equality of privilege; and whether they expect to realize any benefit from it or not, they would think it at least a plain theoretic wrong; that something more or less derogatory to their character and their rights had taken place. I propose to inflict no such wound upon any body, unless something essentially important to the country, and efficient to the preservation of liberty and freedom, is to be effected. Therefore, I repeat, sir, and I repeat it because I wish it to be understood, that I do not propose to address the Senate often on this

subject. I desire to pour out all my heart in as plain a manner as possible; and I say, again, therefore, that if a proposition were now here for a Government for New Mexico, and it was moved to insert a provision for a prohibition of slavery, I would not vote for it.

Now, Mr. President, I have established, so far as I proposed to go into any line of observation to establish, the proposition with which I set out, and upon which I propose to stand or fall; and that is, that the whole territory of the States in the United States, or in the newly acquired territory of the United States, has a fixed and settled character, now fixed and settled by law, which cannot be repealed; in the case of Texas without a violation of public faith, and by no human power in regard to California or New Mexico; that, therefore, under one or other of these laws, every foot of land in the States or in the Territories has already received a fixed and decided character.

Sir, if we were now making a government for New Mexico, and any body should propose a Wilmot proviso, I should treat it exactly as Mr. Polk treated that provision for excluding slavery from Oregon. Mr. Polk was known to be in opinion decidedly averse to the Wilmot proviso; but he felt the necessity of establishing a government for the Territory of Oregon, and, though the proviso was in it, he knew it would be entirely nugatory; and, since it must be entirely nugatory, since it took away no right, no describable, no estimable, no weighable or tangible right of the South, he said he would sign the bill for the sake of enacting a law to form a government in that Territory, and let that entirely useless, and, in that connexion entirely senseless, proviso remain. Sir, we hear much of the annexation of Canada; and if there be any man, any of the Northern Democracy, or any one of the Free-Soil party, who supposes it necessary to insert a Wilmot proviso in a territorial government for New Mexico, that man will of course be of opinion that it is necessary to protect the everlasting snows of Canada from the foot of slavery by the same overspreading wing of an act of Congress. Sir, wherever there is a substantive good to be done; wherever there is a foot of land to be staid back from becoming slave territory, I am ready to assert the principle of the exclusion of slavery. I am pledged to it from the year 1837; I have been pledged to it again and again; and I will perform those pledges; but I will not do a thing unnecessarily, that wounds the feelings of others, or that does disgrace to my own understanding.

Mr. President, in the excited times in which we live, there is found to exist a state of crimination and recrimination between the North and South. There are lists of grievances produced by each; and those grievances, real or supposed, alienate the minds of one portion of the country from the other, exasperate the feelings, and subdue the sense of fraternal affection, patriotic love, and mutual regard. I shall bestow a little attention, sir, upon these various grievances produced on the one side, and on the other. I begin with the complaints of the South. I will not answer, further than I have, the general statements of the honorable Senator from South Carolina, that the North has grown upon the South in consequence of the manner of administering this Government, in the collecting of its revenues, and so forth. These are disputed topics, and I have no inclination to enter into them. But I will state these complaints, especially one complaint of the South, which has in my opinion just foundation; and that is, that there has been found at the North, among individuals and among legislators of the North, a disinclination to perform, fully, their constitutional duties in regard to the return of persons bound to service who have escaped into the free States. In that respect, it is my judgment that the South is right, and the North is wrong. Every member of every Northern Legislature is bound by oath, like every other officer in the country, to support the Constitution of the United States; and this article of the Constitution, which says to these States they shall deliver up fugitives from service, is as binding in honor and conscience as any other article. No man fulfils his duty in any Legislature who sets himself to find excuses, evasions, escapes from this constitutional obligation. I have always thought that the Constitution addressed itself to the Legislatures of the States, or to the States themselves. It says that those persons escaping to other States shall be delivered up, and I confess I have always been of the opinion that it was an injunction upon the States themselves. When it is said that a person escaping into another State, and becoming therefore within the jurisdiction of that State, shall be delivered up, it seems to me the import of the passage is, that the State itself, in obedience to the Constitution, shall cause him to be delivered up. That is my judgment. I have always entertained that opinion, and I entertain it now. But when the subject, some years ago, was before the Supreme Court of the United States, the majority of the judges held that the power to cause fugitives from service to be delivered up was a power to be exercised under the authority of this Government. I do not know, on the whole, that it may not have been a fortunate decision. My habit is to respect the result of judicial deliberations and the solemnity of judicial decisions. But, as it now stands, the business of seeing that these fugitives are delivered up resides in the power of Congress and the national judicature, and my friend at the head of the Judiciary Committee has a bill on the subject now before the Senate, with some amendments to it, which I propose to support, with all its provisions, to the fullest extent. And I desire to call the attention of all sober-minded men, of all conscientious men, in the North, of all men who are not carried away by any fanatical idea or by any false idea whatever, to their constitutional obligations. I put it to all the sober and sound minds at the North as a question of morals and a question of conscience. What right have they, in their legislative capacity, or any other capacity, to endeavor to get round this Constitution, to embarrass the free exercise of the rights secured by the Constitution to the persons whose slaves escape from them? None at all; none at all. Neither in the forum of conscience, nor before the face of the Constitution, are they justified, in my opinion. Of course it is a matter for their consideration. They probably, in the turmoil of the times, have not stopped to consider of this; they have followed what seemed to be the current of thought and of motives as the occasion arose, and they neglected to investigate fully the real question, and to con-

sider their constitutional obligations; as I am sure, if they did consider, they would fulfil them with alacrity. Therefore, I repeat, sir, that here is a ground of complaint against the North well founded, which ought to be removed, which it is now in the power of the different departments of this Government to remove; which calls for the enactment of proper laws authorizing the judicature of this Government, in the several States, to do all that is necessary for the recapture of fugitive slaves, and for the restoration of them to those who claim them. Wherever I go, and whenever I speak on the subject, and when I speak here I desire to speak to the whole North, I say that the South has been injured in this respect, and has a right to complain; and the North has been too careless of what I think the Constitution peremptorily and emphatically enjoins upon her as a duty.

Complaint has been made against certain resolutions that emanate from Legislatures at the North, and are sent here to us, not only on the subject of slavery in this District, but sometimes recommending Congress to consider the means of abolishing slavery in the States. I should be sorry to be called upon to present any resolutions here which could not be referrable to any committee or any power in Congress; and, therefore, I should be unwilling to receive from the Legislature of Massachusetts any instructions to present resolutions expressive of any opinion whatever on the subject of slavery as it exists at the present moment in the States, for two reasons: because, first, I do not consider that the Legislature of Massachusetts has any thing to do with it; and next, I do not consider that I, as her representative here, have any thing to do with it. Sir, it has become, in my opinion, quite too common, and, if the Legislatures of the States do not like that opinion, they have a great deal more power to put it down, than I have to uphold it; it has become, in my opinion, quite too common a practice for the State Legislatures to present resolutions here on all subjects, and to instruct us here on all subjects. There is no public man that requires instruction more than I do, or who requires information more than I do, or desires it more heartily; but I do not like to have it come in too imperative a shape. I took notice, with pleasure, of some remarks upon this subject made the other day in the Senate of Massachusetts, by a young man of talent and character, of whom the best hopes may be entertained. I mean Mr. Hillard. He told the Senate of Massachusetts that he would vote for no instructions whatever to be forwarded to members of Congress, nor for any resolutions to be offered, expressive of the sense of Massachusetts, as to what her members of Congress ought to do. He said that he saw no propriety in one set of public servants giving instructions and reading lectures to another set of public servants. To their own master all of them must stand or fall, and that master is their constituents. I wish these sentiments could become more common, a great deal more common. I have never entered into the question, and never shall, about the binding force of instructions. I will, however, simply say this: if there be any matter pending in this body, while I am a member of it, in which Massachusetts has an interest of her own not adverse to the general interests of the country, I shall pursue her instructions with gladness of heart, and with all the efficiency which I can bring to the occasion. But if the question be one which affects her interest, and at the same time equally affects the interests of all other States, I shall no more regard her particular wishes or instructions, than I should regard the wishes of a man who might appoint me an arbitrator, or referee, to decide some question of important private right between him and his neighbor, and then *instruct* me to decide in his favor. If ever there was a Government upon earth, it is this Government; if ever there was a body upon earth, it is this body, which should consider itself as composed by agreement of all, each member appointed by some, but organized by the general consent of all, sitting here under the solemn obligations of oath and conscience to do that which they think to be best for the good of the whole.

Then, sir, there are the abolition societies, of which I am unwilling to speak, but in regard to which I have very clear notions and opinions. I do not think them useful. I think their operations for the last twenty years have produced nothing good or valuable. At the same time, I know thousands of their members to be honest and good men; perfectly well meaning men. They have excited feelings; they think they must do something for the cause of liberty, and in their sphere of action they do not see what else they can do, than to contribute to an abolition press, or an abolition society, or to pay an abolition lecturer. I do not mean to impute gross motives even to the leaders of these societies, but I am not blind to the consequences of their proceedings. I cannot but see what mischiefs their interference with the South has produced. And is it not plain to every man? Let any gentleman who doubts of that, recur to the debates in the Virginia House of Delegates in 1832, and he will see with what freedom a proposition made by Mr. Randolph for the gradual abolition of slavery was discussed in that body. Every one spoke of slavery as he thought; very ignominious and disparaging names and epithets were applied to it. The debates in the House of Delegates on that occasion, I believe, were all published. They were read by every colored man who could read, and to those who could not read, those debates were read by others. At that time Virginia was not unwilling nor afraid to discuss this question, and to let that part of her population know as much of the discussion as they could learn. That was in 1832. As has been said by the honorable member from South Carolina, these abolition societies commenced their course of action in 1835. It is said, I do not know how true it may be, that they sent incendiary publications into the slave States; at any event, they attempted to arouse, and did arouse, a very strong feeling; in other words, they created great agitation in the North against Southern slavery. Well, what was the result? The bonds of the slaves were bound more firmly than before; their rivets were more strongly fastened. Public opinion, which in Virginia had begun to be exhibited against slavery, and was ope ning out for the discussion of the question, drew back and shut itself up in its castle. I wish to know whether any body in Virginia can, now, talk as Mr. Randolph, Gov. McDowell, and others talked, openly, and sent their remarks to the press, in 1832? We all know the fact, and we all know the cause; and every thing that this agitating people have done has been, not to enlarge, but to restrain, not to set free, but to bind faster the slave population of the South.

That is my judgment. Sir, as I have said, I know many abolitionists in my own neighborhood, very honest, good people, misled, as I think, by strange enthusiasm; but they wish to do something, and they are called on to contribute, and they do contribute; and it is my firm opinion this day, that within the last twenty years as much money has been collected and paid to the abolition societies, abolition presses, and abolition lecturers, as would purchase the freedom of every slave, man, woman, and child, in the State of Maryland, and send them all to Liberia. I have no doubt of it. But I have yet to learn that the benevolence of these abolition societies has at any time taken that particular turn. [Laughter.]

Again, sir, the violence of the press is complained of. The press violent! Why, sir, the press is violent every where. There are outrageous reproaches in the North against the South, and there are reproaches no better in the South against the North. Sir, the extremists of both parts of this country are violent; they mistake loud and violent talk for eloquence and for reason. They think that he who talks loudest reasons best. And this we must expect, when the press is free, as it is here, and I trust always will be; for, with all its licentiousness, and all its evil, the entire and absolute freedom of the press is essential to the preservation of government on the basis of a free constitution. Wherever it exists, there will be foolish paragraphs and violent paragraphs in the press, as there are, I am sorry to say, foolish speeches and violent speeches in both Houses of Congress. In truth, sir, I must say that, in my opinion, the vernacular tongue of the country has become greatly vitiated, depraved, and corrupted by the style of our congressional debates. [Laughter.] And if it were possible for those debates in Congress to vitiate the principles of the people as much as they have depraved their taste, I should cry out, "God save the Republic!"

Well, in all this I see no solid grievance, no grievance presented by the South, within the redress of the Government, but the single one to which I have referred; and that is, the want of a proper regard to the injunction of the Constitution for the delivery of fugitive slaves.

There are also complaints of the North against the South. I need not go over them particularly. The first and gravest is, that the North adopted the Constitution, recognising the existence of slavery in the States, and recognising the right, to a certain extent, of representation of the slaves in Congress, under a state of sentiment and expectation, which do not now exist; and that, by events, by circumstances, by the eagerness of the South to acquire territory and extend her slave population, the North finds itself, in regard to the relative influence of the South and the North, of the free States and the slave States, where it never did expect to find itself when they agreed to the compact of the Constitution. They complain, therefore, that, instead of slavery being regarded as an evil, as it was then, an evil which all hoped would be extinguished gradually, it is now regarded by the South as an institution to be cherished, and preserved, and extended; an institution which the South has already extended to the utmost of her power by the acquisition of new territory.

Well, then, passing from that, every body in the North reads; and every body reads whatsoever the newspapers contain; and the newspapers, some of them, especially those presses to which I have alluded, are careful to spread about among the people every reproachful sentiment uttered by any Southern man bearing at all against the North; every thing that is calculated to exasperate, to alienate; and there are many such things, as every body will admit, from the South, or some portion of it, which are disseminated among the reading people; and they do exasperate, an alienate, and produce a most mischievous effect upon the public mind at the North. Sir, I would not notice things of this sort appearing in obscure quarters; but one thing has occurred in this debate which struck me very forcibly. An honorable member from Louisiana addressed us the other day on this subject. I suppose there is not a more amiable and worthy gentleman in this chamber, nor a gentleman who would be more slow to give offence to any body, and he did not mean in his remarks to give offence. But what did he say? Why, sir, he took pains to run a contrast between the slaves of the South and the laboring people of the North, giving the preference in all points of condition, and comfort, and happiness, to the slaves of the South. The honorable member, doubtless, did not suppose that he gave any offence, or did any injustice. He was merely expressing his opinion. But does he know how remarks of that sort will be received by the laboring people of the North? Why, who are the laboring people of the North? They are the North. They are the people who cultivate their own farms with their own hands; freeholders, educated men, independent men. Let me say, sir, that five-sixths of the whole property of the North is in the hands of the laborers of the North; they cultivate their farms, they educate their children, they provide the means of independence; if they are not freeholders, they earn wages; these wages accumulate, are turned into capital, into new freeholds, and small capitalists are created. That is the case, and such the course of things among the industrious and frugal. And what can these people think when so respectable and worthy a gentleman as the member from Louisiana undertakes to prove that the absolute ignorance and the abject slavery of the South are more in conformity with the high purposes and destiny of immortal, rational, human beings, than the educated, the independent, free labor of the North?

There is a more tangible and irritating cause of grievance at the North. Free blacks are constantly employed in the vessels of the North, generally as cooks or stewards. When the vessel arrives, at a southern port, these free colored men are taken on shore, by the police or municipal authority, imprisoned, and kept in prison, till the vessel is again ready to sail. This is not only irritating, but exceedingly unjustifiable and oppressive. Mr. Hoar's mission, some time ago, to South Carolina, was a well-intended effort to remove this cause of complaint. The North thinks such imprisonments illegal and unconstitutional; and as the cases occur constantly, and frequently, they regard it as a great grievance.

Now, sir, so far as any of these grievances have their foundation in matters of law, they can be redressed, and ought to be redressed; and so far as they have their foundation in matters of opinion, in

sentiment, in mutual crimination and recrimination, all that we can do is to endeavor to allay the agitation, and cultivate a better feeling and more fraternal sentiments between the South and the North.

Mr. President, I should much prefer to have heard from every member on this floor declarations of opinion that this Union should never be dissolved, than the declaration of opinion by any body that, in any case, under the pressure of any circumstances, such a dissolution was possible. I hear with pain, and anguish, and distress, the word "secession," especially when it falls from the lips of those who are patriotic, and known to the country, and known all over the world, for their political services. Secession! Peaceable secession! Sir, your eyes and mine are never destined to see that miracle. The dismemberment of this vast country without convulsion! The breaking up of the fountains of the great deep without ruffling the surface! Who is so foolish, I beg every body's pardon, as to expect to see any such thing? Sir, he who sees these States, now revolving in harmony around a common centre, and expects to see them quit their places and fly off without convulsion, may look the next hour to see the heavenly bodies rush from their spheres, and jostle against each other in the realms of space, without causing the crush of the universe. There can be no such thing as a peaceable secession. Peaceable secession is an utter impossibility. Is the great Constitution under which we live, covering this whole country, is it to be thawed and melted away by secession, as the snows on the mountain melt under the influence of a vernal sun? disappear almost unobserved, and run off? No, sir! No, sir! I will not state what might produce the disruption of the Union; but, sir, I see as plainly as I see the sun in heaven, what that disruption must produce; I see that it must produce war, such a war as I will not describe, *in its twofold character*.

Peaceable secession!—peaceable secession! The concurrent agreement of all the members of this great republic to separate! A voluntary separation, with alimony on one side and on the other. Why, what would be the result? Where is the line to be drawn? What States are to secede? What is to remain American? What am I to be? An American no longer? Am I to become a sectional man, a local man, a separated? with no country, in common with the gentlemen who sit around me here, or who fill the other house of Congress? Heaven forbid! Where is the flag of the republic to remain? Where is the eagle still to tower? or is he to cower and shrink and fall to the ground? Why, sir, our ancestors—our fathers and our grandfathers, those of them that are yet living amongst us with prolonged lives, would rebuke and reproach us; and our children and our grandchildren would cry out shame upon us, if we, of this generation, should dishonor these ensigns of the power of the Government and the harmony of that Union, which is every day felt among us with so much joy and gratitude. What is to become of the army? What is to become of the navy? What is to become of the public lands? How is each of the thirty States to defend itself? I know, although the idea has not been stated distinctly, there is to be, or it is supposed possible that there should be, a Southern Confederacy. I do not mean, when I allude to this statement, that any one seriously contemplates such a state of things. I do not mean to say that it is true, but I have heard it suggested elsewhere, that that idea has originated a design to separate. I am sorry, sir, that it has ever been thought of, talked of, or dreamed of, in the wildest flights of human imagination. But the idea, so far as it exists, must be of a separation, assigning the slave States to one side, and the free States to the other. Sir, there is not, I may express myself too strongly, perhaps, but some things, some moral things, are almost as impossible as other natural or physical things; and I hold the idea of a separation of these States, those that are free to form one government, and those that are slave-holding to form another, as a moral impossibility. We could not separate the States by any such line, if we were to draw it. We could not sit down here to-day and draw a line of separation that would satisfy any five men in the country. There are natural causes that would keep and tie us together, and there are social and domestic relations which we could not break if we would, and which we should not if we could. Sir, nobody can look over the face of this country at the present moment, nobody can see where its population is the most dense and growing, without being ready to admit, and compelled to admit, that ere long America will be in the valley of the Mississippi.

Well, now, sir, I beg to inquire what the wildest enthusiast has to say on the possibility of cutting that river in two, and leaving free States at its source, and its branches, and slave States down near its mouth, each forming a separate government? Pray, sir; pray, sir, let me say to the people of this country that these things are worthy of their pondering and of their consideration. Here, sir, are five millions of freemen in the free States north of the river Ohio: can any body suppose that this population can be severed by a line that divides them from the territory of a foreign and an alien Government, down somewhere, the Lord knows where, upon the lower banks of the Mississippi? What would become of Missouri? Will she join the arrondissement of the slave States? Shall the man from the Yellow Stone and the Platte be connected, in the new Republic, with the man who lives on the southern extremity of the Cape of Florida? Sir, I am ashamed to pursue this line of remark. I dislike it, I have an utter disgust for it. I would rather hear of natural blasts and mildews, war, pestilence, and famine, than to hear gentlemen talk of secession. To break up! to break up this great Government, to dismember this glorious country, to astonish Europe with an act of folly such as Europe for two centuries has never beheld in any Government or any people! No, sir; no sir! There will be no secession. Gentlemen are not serious when they talk of secession.

Sir, I hear there is to be a Convention held at Nashville. I am bound to believe that if worthy gentlemen meet at Nashville in convention, their object will be to adopt counsels conciliatory, to advise the South to forbearance and moderation, and to advise the North to forbearance and moderation; and to inculcate principles of brotherly love and affection, and attachment to the Constitution of the country as it now is. I believe, if the Convention meet at all, it will be for this purpose; for certainly, if they meet for any purpose hostile to the Union, they have been singularly inappropriate in their selection

of a place. I remember, sir, that when the treaty was concluded between France and England, at the peace of Amiens, a stern old Englishman and an orator, who regarded the conditions of the peace as ignominious to England, said in the House of Commons, that if King William could know the terms of that treaty, he would turn in his coffin. Let me commend this saying of Mr. Windham, in all its emphasis and in all its force, to any persons who shall meet at Nashville for the purpose of concerting measures for the overthrow of this Union over the bones of Andrew Jackson.

Sir, I wish now to make two remarks, and hasten to a conclusion. I wish to say, in regard to Texas, that if it should be, hereafter, at any time, the pleasure of the Government of Texas to cede to the United States a portion, larger or smaller, of her territory which lies adjacent to New Mexico, and north of 34° of north latitude, to be formed into free States, for a fair equivalent in money or in the payment of her debt, I think it an object well worthy the consideration of Congress, and I shall be happy to concur in it myself, if I should be in the public counsels of the country at the time.

I have one other remark to make. In my observations upon slavery as it has existed in the country, and as it now exists, I have expressed no opinion of the mode of its extinguishment or melioration. I will say, however, though I have nothing to propose, because I do not deem myself so competent as other gentlemen to take any lead, that if any gentleman from the South shall propose a scheme of colonization, to be carried on by this Government upon a large scale, for the transportation of free colored people to any colony or any place in the world, I should be quite disposed to incur almost any degree of expense to accomplish that object. Nay, sir, following an example set here more than twenty years ago by a great man, then a Senator from New York, I would return to Virginia, and through her for the benefit of the whole South, the money received from the lands and territories ceded by her to this Government, for any such purpose as to relieve, in whole or in part, or in any way to diminish or deal beneficially with, the free colored population of the Southern States. I have said that I honor Virginia for her cession of this territory. There have been received into the treasury of the United States eighty millions of dollars, the proceeds of the sales of the public lands ceded by her. If the residue should be sold at the same rate, the whole aggregate will exceed two hundred millions of dollars. If Virginia and the South see fit to adopt any proposition to relieve themselves from the free people of color among them, or such as may be made free, they have my free consent that the Government shall pay them any sum of money out of its proceeds, which may be adequate to the purpose.

And now, Mr. President, I draw these observations to a close. I have spoken freely, and I meant to do so. I have sought to make no display; I have sought to enliven the occasion by no animated discussion, nor have I attempted any train of elaborate argument. I have wished only to speak my sentiments, fully and at large, being desirous once and for all to let the Senate know, and to let the country know, the opinions and sentiments which I entertain on all these subjects. These opinions are not likely to be suddenly changed. If there be any future service that I can render to the country, consistently with these sentiments and opinions, I shall cheerfully render it. If there be not, I shall still be glad to have had an opportunity to disburden my conscience from the bottom of my heart, and to make known every political sentiment that therein exists.

And now, Mr. President, instead of speaking of the possibility or utility of secession, instead of dwelling in these caverns of darkness, instead of groping with those ideas so full of all that is horrid and horrible, let us come out into the light of day; let us enjoy the fresh air of Liberty and Union; let us cherish those hopes which belong to us; let us devote ourselves to those great objects that are fit for our consideration and our action; let us raise our conceptions to the magnitude and the importance of the duties that devolve upon us; let our comprehension be as broad as the country for which we act, our aspirations as high as its certain destiny; let us not be pigmies in a case that calls for men. Never did there devolve on any generation of men higher trusts than now devolve upon us, for the preservation of this Constitution, and the harmony and peace of all who are destined to live under it. Let us make our generation one of the strongest and brightest links in that golden chain, which is destined, I fondly believe, to grapple the people of all the States to this Constitution, for ages to come. We have a great, popular, constitutional Government, guarded by law, and by judicature, and defended by the whole affections of the people. No monarchial throne presses these States together; no iron chain of military power encircles them; they live and stand upon a Government popular in its form, representative in its character, founded upon principles of equality, and so constructed, we hope, as to last forever. In all its history it has been beneficent; it has trodden down no man's liberty; it has crushed no State. Its daily respiration is liberty and patriotism; its yet youthful veins are full of enterprise, courage, and honorable love of glory and renown. Large before, the country has now, by recent events, become vastly larger. This republic now extends, with a vast breadth, across the whole continent. The two great seas of the world wash the one and the other shore. We realize, on a mighty scale, the beautiful description of the ornamental edging of the buckler of Achilles—

> "Now the broad shield complete, the artist crowned
> With his last band, and poured the ocean round;
> In living silver seemed the waves to roll,
> And beat the buckler's verge, and bound the whole."

SPEECH

OF

HON. I. P. WALKER, OF WISCONSIN,

IN SENATE OF THE UNITED STATES, MARCH 6, 1850,

On the Compromise Resolutions submitted by Mr. CLAY, on the 25th of January.

The Senate having resumed the consideration of the Compromise Resolutions offered by Mr. CLAY, on the 25th of January—

Mr. WALKER rose and said:

Mr. PRESIDENT: I propose to address myself to-day mainly to the second resolution of the series offered by the Senator from Kentucky, [Mr. CLAY:] but before I do so, I wish to submit a few observations upon the question of the power of Congress to legislate for the territories; and particularly in its bearing upon the question of slavery. The Senator from Michigan [Mr. CASS] submitted to us, a few days since, an argument deserving great consideration, and one most interesting in the points on which it touched. And, sir, it is rare in the life of one who mingles in political matters, to witness an exhibition of greater sublimity than was presented to us, when he rose and delivered his views as he did—and as he must have felt, and has acknowledged—in opposition to the sentiments and views of nine tenths of the major half of this Union, and in opposition to what now seem to be the views and sentiments of the leading Senators, at least, in the other. It showed an independence of thought—an independence of feeling and spirit—which, I must say, is too rarely exhibited in our representative Republic. But, notwithstanding all this, I cannot agree with the sentiments he expressed in regard to the powers of Congress. In fact, I do not think that, after all the Senator said, (and so ably,) he touched the real foundation of the power of Congress to legislate over the territories. If the Senator will permit me to ask him a few questions, I think we can bring this subject more plainly before the Senate. I shall do so, for the purpose—if he be wrong and becomes satisfied of it—that he may be afforded an opportunity of correcting his error; for I believe the Senator is one "who does not stereotype, but corrects his errors." And I shall do so for the further object, that if I am wrong, I may have the benefit of his experience and his knowledge to set me right. I would ask the Senator, if he will permit me, if he admits, or not, that the power to acquire territory is an incident to the war and treaty-making power?

Mr. CASS. No, not at all. It is, as I declared in my speech, not an incident, but a *part* of the treaty-making power, to acquire territory.

Mr WALKER. The answer is stronger than I expected.

Mr. CASS. It is the doctrine I maintained in my speech, and what I maintain now.

Mr. WALKER. It was a difficulty on this subject, from the phraseology of the Senator's speech, that led me to make the inquiry which I have. A further inquiry I have to make is, where was the power to make war and treaties vested before it was delegated to this Government?

Mr. CASS. Under the old Confederation, does the Senator mean?

Mr. WALKER. No, sir—before the States gave up the power to the *United* States.

Mr. CASS. We were not an independent Government, or Republic, before that. Great Britain, of course, had the power then.

Mr. WALKER. That is true, before the States were independent; but the import of my question is not understood, nor the answer to it given; and I will, therefore, change it. Before the power to make war and treaties was delegated by the States, where did it reside?

Mr. CASS. I really do not understand the gentleman. There was certainly no such power until the Union, the Government itself, was formed.

Mr. WALKER. I meant the question in no unkindness.

Mr. CASS. Oh, certainly not. I have not so understood it.

Mr. WALKER. My object was, that the view which the Senator entertained might be brought before the Senate. I will cease to interrogate him, however, and will state my position.

Mr. CASS. I am certainly willing to be interrogated all day, and to answer all the questions which the Senator may put to me. I now repeat, that if I understood his question, I would give it a categorical answer. I can only repeat, what I said before, that until the States united together, there was no common power to declare war. To claim that there was, would be to claim that this is a Government of original powers, which would be a monstrous construction.

Mr. WALKER. So I understood when I asked the question, where did the power reside before it was delegated? The answer undoubtedly must be, that it resided with the States. If this is a Government of delegated powers, the powers that are delegated by the Constitution must have resided with those who had to make the delegation. I contend, then, that the power to make war and treaties rested with the States; and that while it rested there, as the Senator has acknowledged, this Government had nothing to do with it. My object is to come to the conclusion that this power is an expressly delegated power, or so necessarily relative and incidental to a delegated power, as to be necessary and proper to the exercise of it.

To be more explicit: I have asked the question, whether the Senator admits or denies that the power to acquire territory was an incident to the war and treaty-making power? and he gives me an answer stronger than I expected—that it is the

power itself. I then ask, where the power to make treaties and to acquire territories resided before it was delegated to the United States? and the answer must necessarily be, that it rested with those powers who made the delegation—the States. The next question would be, that as with the power to make war and treaties, goes the power to acquire territory, where did the power to govern the acquisition reside before the power to acquire was delegated? Must not the answer be, that the power to govern was in the power which made the acquisition—the States? I intended to ask this further question: when a power was delegated by the States to the General Government, were not the incidents to that power also delegated? If any one can give an answer in the negative, I would be glad to have him do it. I hear none.

Mr. CASS. The Constitution, which gives the power, carries the incident to that power with it; otherwise it is not there; and if it is not clearly there, it would be, in all respects, a most violent construction which would deduce it. But the power to acquire is the power itself.

Mr. WALKER. My position is not understood. What I asked was, did the delegation of a *power* carry with it its incidents? This is not denied. Then, if the power to make war and treaties resided in the States, and if a part of the war and treaty-making power is the power to acquire territory, which necessarily carries with it, as an incident, the power to govern the territory, and the delegation of a power is a delegation of the incident, what becomes of that power, with its parts and incidents, when it is not only delegated to the General Government, but its exercise, by the States, is prohibited by the Constitution? Must it not be necessarily vested in Congress? I believe this view of the subject has never been presented in the Senate before. If it has, I have never seen it, or heard of it. I have never before heard it claimed, that the power to govern the territories was an expressly delegated power.

Mr. CASS. Has this Government any powers which are not given it in the Constitution?

Mr. WALKER. I have not contended that it has.

Mr. CASS. Must we not go to the Constitution to look for its powers?

Mr. WALKER. There is where I am going, and have gone.

Mr. CASS. No; the Senator is going before the Constitution.

Mr. WALKER. I ask the Senator if the States could delegate what they did not possess?

Mr. CASS. What does the Senator mean?

Mr. WALKER. I mean that the States, before they delegated it, possessed the power to make war and treaties; and that they have not only delegated the war and treaty-making power, of which the power to acquire and govern territories was an incident and part, but that the Constitution prohibits its exercise by the States; and that, consequently, the power, with its parts and incidents, must be vested in the General Government.

Mr. CASS. If the Senator means that they have not delegated it positively, and that it is merely inferential, I maintain that the States never possessed such powers to be delegated or inferred.

Mr. WALKER. The Senator runs into the doctine against which he warns me, to wit: that this is a Government of inherent, and not of delegated, powers. I contend, that the power to acquire and govern is a delegated power. He will not admit that the power resided in the States, nor will he answer me whether the States delegated that which they did not possess. Why is there a prohibition against their exercising that power, if they never possessed it? My position, then, to repeat it, after this colloquy, is this: that the treaty and war-making power, with its parts and incidents to acquire and govern territory, resided with the States before the formation of the Confederation or Union, and that, when the Constitution was adopted, they gave up that power. Under the delegation of the treaty and war-making power, was necessarily delegated the power to acquire territory, and as necessarily the power to govern it. I wish to get this explanation and the views I entertain clearly before the Senate, that it may be understood that, while I contend for the exercise of this power on the part of Congress, I have some views, at least rational, on the subject of the power of Congress to do what I desire. If Congress did not possess the power—if it was not clearly perceived that the States had given up this power—it must necessarily be an exercise of power which is doubtful, and being doubtful, we perhaps ought to refrain from the exercise of it. I present this view for another purpose. It is generally charged that we are violating the Constitution in doing what we propose in regard to the territories. Certainly none of us intend any such thing, and I wish to be understood, so far as I am concerned. I look upon Congress as not exercising a merely inferential power, but an expressly delegated power, when it exercises legislation for the territories.

It may be contended, however, that the power to legislate on the *subject of slavery* was an exception to the general powers of a State to legislate for its territories. But can any one point out why, or wherein, this exception existed, or any evidence or authority that it existed at all? No, sir! It would be strange, indeed, if the individual States did not possess this power in their territories before they had delegated *any* of their powers; and yet, after they had delegated the most important of them, they should possess *this very power;* for certainly they now possess it, to the fullest extent, in territory under their jurisdictions. Some have abolished, some have prohibited it, and others have regulated it, in all its details.

But to come now to the subject for which I mainly took the floor. The Senator from Kentucky has submitted to us a series of resolutions, the second of which reads as follows:

2. *Resolved*, That as slavery does not exist by law, and is not likely to be introduced into any of the territory acquired by the United States from the Republic of Mexico, it is inexpedient for Congress to provide by law, either for its introduction into, or exclusion from, any part of the said territory; and that appropriate territorial governments ought to be established by Congress in all of the said territory not assigned as the boundaries of the proposed State of California, without the adoption of any restriction or condition on the subject of slavery.

I have moved so to amend this resolution, that it shall read:

Resolved, That as slavery does not exist by law, but has been abolished and prohibited, together with the slave-trade, and cannot be introduced into any of the territory acquired by the United States from the Republic of Mexico, without positive enactment, it is inexpedient, &c.

Without wishing to be understood as pledged to vote for this resolution, I intend to try to make good the proposition involved in my amendment, to wit: that slavery does not only not exist by law, but that it has been abolished and prohibited,

and cannot be carried into California and New Mexico, without a positive enactment for that purpose. In doing this, I shall present the laws of Mexico. I shall go behind the period to which the distinguished Senator from Missouri [Mr. BENTON] called our attention a few days since, and I shall present some other provisions of law, and of stipulation, on the part of Mexico, than those presented by him. He commenced with the decree Guerrero, in 1829. I shall go back as far as the year 1823.

It will be borne in mind that Mexico declared her independence on the 24th of February, 1821. In not quite one year and eleven months after that day, the Government of Mexico took its first action on the subject of slavery. On the 4th January, 1823, what is called the colonization act of Mexico, was passed. It was passed by the political junta under Iturbide, the then Emperor. The thirtieth article of that law reads as follows:

"ART. 30. After the publication of this law, there can be no sale or purchase of slaves which may be introduced into the empire. The children of slaves born in the empire shall be free at fourteen years of age."

It is a little singular that this colonization act was passed, as history informs us, at the earnest solicitation of the agent of Texas, then in Mexico. It would have taken, under the operation of this law alone, but a short time to rid the country of slavery. The slaves then living would have been the last.

The next act, on the part of Mexico, was passed July 13, 1824. It has been once brought to the attention of the Senate by the Senator from Mississippi, [Mr. DAVIS,] and once by the Senator from Missouri, [Mr. BENTON;] but I will again read it, for the purpose of offering some comments on its provisions:

"DECREE OF THE 13TH OF JULY, 1824.

"*Prohibition by Congress of the Traffic in Slaves.*

"The sovereign constituent Congress of the United States of Mexico has thought it proper to decree as follows:

"1. The commerce or traffic in slaves is forever prohibited in the territory of the United States of Mexico, under whatever flag, and coming from whatever Power, (or country.)

"2. Slaves which shall be introduced against the tenor of the foregoing article are free, from the single fact of treading the *territory* of Mexico.

"3. Any vessel, whether national or foreign, in which slaves shall be introduced, shall be irreversibly forfeited, with all its cargo; and the owner, supercargo, captain, master, and pilots, shall suffer the punishment of ten years' imprisonment."

Sir, there is nothing which, in its terms, can be more positively prohibitory of the slave-trade, than this act. There could scarcely be imagined penalties which would make it more binding. Why, the innocent pilot, who merely navigates the vessel into port, is made one of those who are subject to those penalties.

In consequence of this action upon the part of Mexico, Great Britain was induced to acknowledge her independence. I do not speak without having referred to the history of that period; and it will be seen, by consulting the diplomatic correspondence of the day between the agents of Mexico and those of Great Britain, that it was one of the principal causes which led to the acknowledgment of Mexican independence by the British Government. In 1826 a treaty was entered into between Mexico and Great Britain, the fifteenth article of which, according to the English text, is as follows:

"The Government of Mexico engages to coöperate with his Britannic Majesty for the total abolition of the slave-trade, and to prohibit all persons inhabiting within the territories of Mexico, in the most effectual manner, from taking any share in such trade."

This brings us up to the period of the celebrated decree of Guerrero, which is as follows:

[Translation.]

"ABOLITION OF SLAVERY.

"*The President of the United Mexican States to the inhabitants of the Republic:*

"Desiring to signalize, in the year 1829, the anniversary of independence, by an act of national justice and beneficence, which may tend to the benefit and support of so important a good, which may strengthen more and more the public tranquillity, which may coöperate in the agrandizement of the Republic, and which may restore to an unfortunate portion of its inhabitants the sacred rights which nature gave them, and the nation protected by wise and just laws, in conformity to the provision of the 30th article of the constitutive act, exercising the extraordinary powers which are conceded to me, I do decree:

"1. Slavery is abolished in the Republic.

"2. Those who, until to-day have been considered slaves, are consequently free.

"3. When the condition of the treasury will permit, the owners of the slaves will be indemnified in the manner which shall be provided for by law.

"JOSE MARIA DE BOCANEGRA.

"MEXICO, 15th September, 1829, A. D."

"And in order that the present decree may have its full and entire execution, I order it to be printed, published, and circulated to all those whose obligation is to have it fulfilled.

"Given in the Federal Palace of Mexico, on the 15th of September, 1829.

"VINCENTE GUERRERO,
"LORENZO DE ZAVALA."

But it is said that GUERRERO was an usurper, and that he had no power to issue such a decree, and make it effectual. For the information of those who may be thus doubtful, it may be proper to bring the attention of the Senate to the act which conferred upon GUERRERO the power under which he was then acting; and I will say, that if the Congress of Mexico had the power to confer absolute and arbitrary authority upon the President of that Republic, it was done, so far as the terms used are concerned. It is as follows:

[Translation.]

"EXTRAORDINARY POWERS TO THE GOVERNMENT.

"ART. 1. The Executive of the confederation is authorized to adopt *whatever measures may be necessary* for the *preservation of independence, of the present system of government, and of tranquillity.*

"ART. 2. By the preceding article, the Government is *not* authorized to *dispose* of the *lives* of Mexicans, or to *expel them* from the territory of the Republic.

"ART. 3. This authority shall cease as soon as the General Congress shall meet in ordinary sessions."—*Collection of Laws and Decrees made by the General Congress, &c., of* 1829 *and* 1830, *page* 55.

We see here that absolute power, with the exception of taking the lives of and banishing Mexican citizens, was conferred upon the President; and it was given for the preservation of the existence of the Republic. It must be borne in mind, that at this time Mexico was invaded by the Spaniards; and the most terrible apprehensions were entertained that, in consequence of the combined efforts of Texas on the one hand, and of Spain on the other, the independence of the nation would be subverted. Hence it seems to have become necessary, from the peril of the Government, to repose the most unlimited power in some one of its departments, which could act immediately, in order to preserve the existence of the Republic. Well, this power, consequently, was given to her President, GUERRERO. There was no subject at the time, relating to the politics of Mexico, which excited so much sympathy in her behalf, as that of her efforts to abolish slavery; and consequently GUERRERO issued his decree, under these extraordinary powers, in order to secure the influence, if not the aid, of other Powers hostile to that institution.

Mr. BERRIEN. Will the Senator permit me to ask him a question?

Mr. WALKER. Certainly.

Mr BERRIEN. Does the Senator believe that there is any clause in the Constitution of Mexico investing the Mexican Congress with the power to confer upon any citizen of Mexico unlimited power?

Mr. WALKER. I will endeavor to answer this question; and though I admit there is no clause in the Mexican constitution expressly giving the power, still I think I shall be able to satisfy the Senator that the power, in regard to which he inquires, does, under their form of government, reside in the Mexican Congress. The Senator no doubt puts the question, because he assimilates our Government to that of Mexico; and knowing that no such power exists under our Constitution, he takes it for granted none such exists there—both being confederated Republics. But there is a great error in assimilating the cases of Mexico and the United States, in this, that Mexico was originally a *consolidated empire;* the United States were *separate* and *independent States.* In Mexico, the *nation* declared her independence; here it was declared that the "*States* were, and of right ought to be, free and independent." In Mexico, the States were created by the delegation of powers to them, by the *General Government;* here the General Government was created by the delegation *to it* of powers by the *States.* There the powers, not delegated *by* the *General Government, or prohibited to it, are reserved to it:* here the powers not delegated by the *States,* or prohibited to them, are reserved to *them.* Now for the authority.

Mexican independence was declared, and her Government established under what is called the plan of IGUALA, framed by ITURBIDE, who became the first Emperor. I will read the first, fourth, fifth, sixth, and seventh articles of this plan or Constitution, for the purpose of elucidating the distinction I have drawn between that Government and this:

"ART. 1. The *Mexican nation* is independent of the Spanish nation, and of every other, even on its own continent."

"ART. 4. The Government shall be a constitutional *monarchy.*

"ART. 5. A *junta* shall be named, consisting of individuals who enjoy the highest reputation in the different parties which have shown themselves.

"ART. 6. This junta shall be under the Presidency of his Excellency, the CONDE DEL VENADITO, the present Viceroy of Mexico.

"ART. 7. It shall govern, *in the name of the nation,* according to the laws now in force; and its principal business will be to *convoke,* according to such rules as it shall deem expedient, *a Congress for the formation of a Constitution* more suitable to the country."

It will be perceived, that in Mexico a *Congress* was convoked by *Government to form a constitution;* here the *States* assembled to create a *Congress, a Constitution, and a Government.* Where is the sovereignty of the States in Mexico to be found? If afterward a Constitution was formed, and States established, the *States* derived their powers from the *Government;* here the *Government* derived its powers from the *States.* ITURBIDE established the junta, mentioned in the fifth article of the plan, by proclamation. This junta established a *regency,* and next *a plan for assembling a Congress.* A Congress met in February, 1822, when the junta dissolved itself. On the 18th of May, 1822, ITURBIDE was proclaimed Emperor of Mexico, under the title of AUGUSTINE I.; and on the 30th of October following, *he dissolved the Congress,* and appointed a junta of forty-five. This was dissolved by VICTORIA, after ITURBIDE had abdicated; and a *supreme Executive* of three was appointed. A *Constituent Congress was next established, after the plan of a Constitution had been promulged.* The Congress discussed and *approved* this plan, which is the Constitution of 1824. The very first thing which the Congress did under it, was to assume the *supreme legislative power.* How unlike is all this to the mode of establishing our Government! My answer to the Senator from Georgia, then, is, that I do find in the Mexican Government the power (and they have often exercised it) to confer on Guerrero the extraordinary powers in question. *It is among its reserved and unprohibited powers.*

Soon after the issue of this decree, GUERRERO was driven from power. I believe he was shot on the 11th of February, 1831. We know that it has been a part of the history of Mexico, that whenever one of their military chieftains has begun to experience the checks of misfortune, his sunshine friends at once leave him. So soon after his death as the 15th of March, his decrees had so far fallen into disrepute, that the Congress of Mexico then passed an act, or rather a joint resolution, to which our attention has already been called, by which his decrees were suspended. One article of that joint resolution is as follows:

"All laws, decrees, regulations, orders, and provisions which were promulgated by the Government, in virtue of the afore-said extraordinary powers, that in their nature appertain to the legislative power, shall be submitted to the General Congress, and henceforward shall be without effect until they are revised by the Chambers."

We see, then, that the decree was suspended; but in this connection let me read what had been the effects upon the institution of slavery under that decree.

I hold in my hand a letter from a gentleman residing at the time, and for years, in Mexico. I speak of Dr. John Baldwin, now in this city, and who is one of the principal claimants under the Mexican treaty, and a distinguished and worthy gentleman. He has done me the kindness, at my request, to write me this letter on the subject; and as it shows the effect and operation of the decree of GUERRERO, I will read a portion of it:

"WASHINGTON CITY, *Feb.* 22, 1850.

"SIR: In compliance with your request, I hasten to reduce the subject of our conversation, on the abolition of slavery in Mexico, to writing. I was, at the time of the ratification of the treaty of Guadalupe Hidalgo, the only person in this city who had any distinct or positive information on that subject. I gave to Senator CLARKE, of Rhode Island, translations of the Mexican laws upon the subject, viz: the decree of GUERRERO, the President of Mexico, dated 15th September, 1829, together with the subsequent decree of the Mexican Congress of 1837.

"The practical effect of the decree of GUERRERO, in the State of Vera Cruz, where I resided at the time, was the immediate emancipation of the few slaves who resided at that time in the State. The owners, together with their slaves, were, by order of the *gefe politico,* summoned to appear before the proper authority, upon which appraisers were duly appointed to affix a just value upon the slaves; whereupon a certificate was extended by the sub-commissary of the department, in which was set forth the amount which the owner was entitled to receive from the public treasury, in compensation for the slave or slaves liberated under the aforesaid decree. To the slave, thus manumitted, a document was given, setting forth the manner in which his or her liberty was obtained.

"The persons thus manumitted, by virtue of the decree of September 15th, were never again reduced to slavery."

I read this, because it was said by the Senator from Mississippi, [Mr. DAVIS,] that the decree of GUERRERO was never fully executed.

Mr. DAVIS. Does the Senator allude to me?

Mr. WALKER. I do.

Mr. DAVIS. Then the Senator misunderstands

what I said. I said, that undoubtedly some slaves were liberated under the decree of GUERRERO, but that it never was fully carried into effect, as an evidence of which is the fact, that the Mexican Congress passed a law in 1837 to carry it into effect.

Mr. WALKER. I may not have comprehended the remark of the Senator from Mississippi, and it now occurs to me that he did make some such remark. But we hear what was the effect of that decree, from a gentleman who was there, and who witnessed its operation. The decree, after the act which suspended it, was of course without effect, until further action on the part of Congress. That action took place in 1837, and the act then passed I will read. I ask the Senate's attention particularly to its phraseology. The history of the act might well accompany it, that it may be clearly understood.

In 1830, there was an act passed, which seems to have been to conciliate Texas, which declared that no change should be made within the colony of Texas in reference to slaves therein, but that the General Government and the State authorities must take care that the *colonization* law be fully executed in *future*. When we come down to the period of 1837, we know that Texas had persisted in her revolutionary course, one of her complaints being, the action of Mexico in regard to slavery. We know that she was then struggling for her independence, and that the exception, made in the act of 1837, was governed by the hostile position which Texas and the mother country by this time occupied toward each other. The act was passed the 5th of April, 1837, and is as follows:

"1. Slavery is abolished, without any exception, in the whole Republic.

"2. The masters of slaves manumitted by the present law, or by the decree of the 15th of September, 1829, (*Recopilacion* of that month, p. 213,) shall be indemnified for their value, (*del interes de estos,*) according to the estimate which shall be made of their personal qualities; to which effect there shall be named a competent person (*un perito*) by the commissary-general, or whoever occupies his place, and another by the master; and in case of disagreement, a third, who shall be named by the respective constitutional alcalde, without any recourse from this determination. The indemnification of which this article speaks, shall not have operation with respect *to those colonists of Texas who may have taken part in the revolution of that department.*"

"3. The same owners to whom will be given gratis, the original documents of the valuation referred to in the anterior article, will present them to the Supreme Government, who will ordain that the general Treasury issue the corresponding bonds for value of the respective amounts.

"The payment of said bonds will take place in the manner which the Government may judge most equitable, conciliating the rights of individuals with the *actual state of the public funds.*"

The Senator from Mississippi remarks, in regard to this act; that it "was never carried out." "So far as I have been able to learn, the appraisement, which was a part of the law *with which it was to go into effect*, was never made, nor in any manner compensation rendered." I quote now the exact language of the Senator from Mississippi, and I would ask him how he knows this? It would seem to me that it is likely he is mistaken in this respect, as he certainly was to some extent in the other.

Mr. DAVIS. I do not mistake in either. I say that so far as I have been able to learn from those who were then there, and who have been there since, and who were connected with the Government, this appraisement was never made.

Mr. WALKER. Nor does the law depend upon it. The effect of a law, at once abolishing slavery, does not depend upon the contingency of the appraisement, or payment of a compensation at an indefinite time. As well might it be said that he who takes a promissory note for the sale of a horse, would have a right to retake the horse if payment was not made. The act abolishes slavery unqualifiedly, and that *abolition* is not made to depend on the payment or appraisement. The owners were to be paid, *when it was in the power of the Government to pay them*, but slavery was not the less unqualifiedly destroyed and abolished, if they were never paid.

Mr. BERRIEN. With the consent of the Senator, I will ask him how could a provision have been carried out for the appraisement of the personal qualities of the slaves, if they were liberated by the mere operation of this act?

Mr. WALKER. In the same manner as the personal qualities of a slave who had been shot, could be ascertained in a court of justice, investigating a case under the law of bailment or trespass. The slave might be in eternity, and yet there might be witnesses who knew his qualities, and could testify in regard to them. I presume there is scarcely a slave whose personal qualities are not known to somebody.

The Senator from Georgia [Mr. BERRIEN] has heretofore asked, if slavery was abolished by the decree of Guerrero, what slavery there was left to be abolished by the Mexican Congress? I answer, that my opinion is, the decree swept slavery from the soil, except in Texas; and that there was *none* existing. But that there might be no doubt as to the validity of the decree, and to remove its suspension, was a very good reason why the law was passed. There was a good reason for it, if Mexico intended that her soil should not be *trodden by the slave.*

We have, then, sir, got down to the act of Congress of 1837; and attention being bestowed upon these laws, it will be seen that they are as effectually prohibitory of slavery, as if the term prohibited had been used. The term is used in regard to the slave-trade, and the purport and effect of the act of Congress of 1837 is prohibition. It declares that slavery is abolished without any exception in the whole Republic. Now, sir, a thing which is abolished—a right which is destroyed—no longer exists. Can any right which is abolished be *ever* exercised against the act of abolition? Is it not a prohibition? But I will not stop here. I will come down one step further; and that brings us to 1843—to the Constitution to which attention was directed the other day by the Senator from Missouri [Mr. BENTON.] It declares as follows:

"That no one is a slave in the territory of the nation, and any introduced shall be considered free, and shall be under the protection of the laws."

Is any stronger prohibition than this desired? Can slavery exist there? Is it not effectually destroyed? Is it not effectually prohibited, if no one is a slave throughout the Mexican territory, and every one which shall be introduced is to be free, and be under the protection of the laws?

Mr. BUTLER. Suppose that this territory was conquered entirely by a nation of slaveholders, could they not, whatever might be the laws of the territory, carry their *property* there?

Mr. WALKER. I will endeavor to answer the gentleman, and inform him that the judiciary has decided that question against him, if he means *slaves* by the term "property." It has decided, sir, that those laws remain in force on this very point. I will refer him to no free-State authority, but to that of the Supreme Court of the United

States, and to decisions repeated over and over again in the slave States themselves, and particularly to Walker's Mississippi Reports, page 37, which I shall presently quote.

But I was remarking upon the prohibitory character of the Constitution of Mexico of 1843. If anything can be prohibitory of slavery, it is that which declares, that the moment the foot of the slave touches the soil, he is free. Is there any language upon which we can rest more securely than that of the common law, that the slave is free the moment his foot touches the soil of England? And will it be contended that a slave taken there continues a slave? I presume not. It will not do to consult the common-law writers of England on this subject. The contradiction is given too positively, and the proof too strongly, to be controverted.

In 1844 the Mexican Constitution was again amended; and, according to Waddy Thompson, a southern gentleman, and a late minister to Mexico, in a work written by him, entitled "Recollections of Mexico," this constitution declares, that "SLAVERY IS FOREVER PROHIBITED,"—(page 180.)

If four words can be found which could more effectually put out of existence slavery, or the right to hold slaves, I should like to have them pointed out to me. In regard to time, I can find no term which expresses more than "*forever*," or one stronger for the destruction of a right, than "*prohibited.*"

Here is a chain of legislation and governmental action on the subject of slavery, from a period of one year and eleven months after the Declaration of Mexican Independence, down to the year 1844; and you will find all her acts, wherever touching the subject of slavery, assuming language not to be mistaken. Point me to one of the free States which has abolished slavery, and show me the law which in the same strength of terms destroys slavery. It is not in Connecticut that a law exists so strong—and she is as much adverse to slavery as any other State. I believe there is no free State, except in those formed out of the Northwest territory, where the prohibition is so strong against slavery as in Mexico. Indeed, the language of the ordinance of 1787 itself is not so strong. What does that declare? That "there shall be neither 'slavery nor involuntary servitude, *except* for the 'punishment of crime;" but it declares that fugitive slaves *shall be surrendered.* There is no proviso of the kind in the Mexican law. The language is, that slavery is abolished, without exception, in the whole Republic. The constitution of 1843 is, that no slave exists in the Republic, and that slaves brought there shall be free from the simple fact of treading on Mexican soil. The Constitution of 1844 is, that "*slavery is forever prohibited.*" Compare that language with the ordinance of 1787, and you will find that the strength of terms is with the laws of Mexico.

Having given those laws, I now come to the question, and the great question which is here controverted, to wit: the effect of those laws upon this country, or rather upon persons going from this country into the territories acquired from Mexico.

I will here lay down a proposition of law: I hold it to be the law, both in this country and in England, that where a country acquired by conquest or cession has laws of its own, such laws continue and remain in full force until altered or repealed by the supreme power of the country making the acquisition, *except such laws only as are against the law of God, or incompatible with the Constitution or political law of the acquiring country.* Now, if this principle of law is controverted, I shall feel obliged, indeed, for the authorities against it. I have looked in vain for any, and I do not believe that any exist. If my position be correct, it settles the question, unless it can be shown that the slavery laws of the *States* are a part of the *political* law of this *Government.*

Mr. BERRIEN. Lest the Senator, by stating this proposition, should infer that the silence of the Senate was an acquiescence in it, I will make a remark. The proposition is, the laws of a country which is conquered or acquired, remain in force until they are repealed by the country making the acquisition.

Mr. WALKER. Except such only as are against the laws of God, or are incompatible with the Constitution or political laws of the country making the acquisition.

Mr. BERRIEN. The principle, as laid down by the writers of all nations, is, that the civil laws—those which control the conduct of citizens or subjects, in their intercourse with each other—remain in force until repealed; but the same authorities also assert that public or political laws cease to exist, *eo instanti*, upon the conquest or acquisition of the country. The question, then, for the Senator to discuss, is, what are *political* and what are civil laws?

Mr. WALKER. That is just what I am going to discuss; and I take the ground that the laws of Mexico to which I have alluded are *not of a political kind, or incompatible with our political law.*

I suppose gentlemen will concede that all the political laws we have are to be found in the Constitution, and those acts of Congress which were intended to carry out its provisions. Whether the authority of the Supreme Court will be considered good on this subject of slavery, or not, I will not undertake to say; but certain it is, that whatever the writers upon the law of nations may have affirmed in reference to this question, the Supreme Court has decided it against those gentlemen who claim the right to take their slaves to California. The first case to which I shall refer, is that of the UNITED STATES *versus* PERCHEMAN, in the seventh volume of Peters's Reports.

It is claimed by gentlemen here, that by virtue of the acquisition of the territory, the laws abolishing or prohibiting slavery were abrogated. The Supreme Court says, (pp. 86, 87,) in the case before me:

"It may not be unworthy of remark, that it is very unusual, *even in cases of conquest*, for the conqueror to do more than to displace the sovereign, and assume dominion over the country. The modern usage of nations, which has become *law*, would be *violated*; that *sense of justice and of right*, which is acknowledged and felt by the whole *civilized* world, would be *outraged*, if private property should be generally confiscated, and private rights annulled. *The people change their allegiance—their relation to their ancient sovereign is dissolved*; but their *relations to each other*, and their rights of property, remain undisturbed. If this be the modern rule, even in cases of *conquest*, who can *doubt* its application to the case of an *amicable cession of territory.*"

In this case, sir, though the court decided the general principle, the case itself was one which related to property. PERCHEMAN claimed title to land, under a grant from the Governor of Florida, under authority from the King of Spain. It was contended, sir, precisely as it is contended here, that when Florida was acquired by this country, the laws and grants then existing in Florida were abrogated. The Supreme Court says, no; the

people only change their allegiance—the relation between them and the sovereign is dissolved, while the rights of property, and their relations to each other, remain as before.

But I will now refer to a decision that does not concern the rights of property, but which relates to the provisions of the law of salvage. Now, if the laws of Florida were abrogated by the cession, would not the salvage laws be abrogated as well as other laws? Can gentlemen draw the distinction? Not at all, sir. If gentlemen say that, because the laws relating to the institution of slavery are *recognized* by the Constitution, they become a part of the political law of the land, which abrogates the local law of the territory when annexed, why is not a commercial law a part of the same political law? for certainly the institution of commerce is not only *recognized*, but its whole regulation is embraced *exclusively*, by the Constitution. If they claim that the anti-slavery laws of Mexico become abrogated, on the acquisition in California and New Mexico, why not claim that the commercial law of salvage becomes abrogated also? Now, here is a decision which declares that the law relating to salvage remained in force after Florida was annexed to this country. The court says:

"The usage of the world is, if a nation be not entirely subdued, to consider the holding of conquered territory as a mere military occupation, until its fate shall be determined at the treaty of peace. If it be ceded by the treaty, the acquisition is confirmed, and the ceded territory becomes a part of the nation to which it is annexed, either on the terms stipulated in the treaty of cession, or on such as its new master shall impose. On such transfer of territory, it has *never* been held that the relations of the inhabitants with each other undergo any change. *Their relations with their former sovereign are dissolved*, and new relations are created between *them* and the *Government* which has acquired their territory. The same act which transfers their country, transfers *the allegiance of those* who remain in it; and the laws which may be denominated *political*, is necessarily changed, although that which regulates the *intercourse and general conduct of individuals, remains in force until altered by the newly-created power of the State.*"—*1st Peters's Sup. Ct. Reps., page* 542.

Again:

"It has already been stated that all the laws which were in force in Florida, *while a province of Spain*—those excepted which were *political* in their character, *which concerned the relations between the people and their sovereign*—remained in *force until altered* by the Government of the *United States*. No laws *could* then have been in force, but those enacted by the *Spanish Government*."—*Same case, page* 544.

This, sir, goes to the full extent of the doctrine for which I contend. It declares what the political law of this country is—what the political law of *every* country is: that it regulates the relations between the subject and the sovereign—between the Government and the citizens; and that all other laws remain in force in the conquered or ceded country, until repealed, altered, or amended by the country making the acquisition.

Mr. BERRIEN. Will the honorable Senator allow me to remind him, that the law to which he refers was continued in force by the act of Congress creating a territorial government for Florida? I refer to the act of 1822.

Mr. WALKER. I do not controvert what the Senator from Georgia says, if he means only that the act of 1822 *declared* the laws of Spain *to be in force*. But if he means to say that the act *enacted them into force*, I do controvert it.

Mr. BERRIEN. The court says, that the laws in force there were the laws of Spain.

Mr. WALKER. Just so.

Mr. BERRIEN. I affirm that the laws of Spain were in force there by the act of Congress, which organized a territorial government—the act of 1822.

Mr. WALKER. There, sir, we are at issue.

Mr. BERRIEN. Will the honorable Senator allow me to read from the act of 1822?

Mr. WALKER. Certainly.

Mr. BERRIEN. The provision is this:

"That the laws *in force* in said territory at the time of the passage of this act, and which are not inconsistent with the provisions thereof, shall *continue* in force until altered, amended, or repealed, by legislation of Congress."

Mr. WALKER. Suppose that be so, sir; then——

Mr. BERRIEN. Then the continuance of the Spanish laws which *were in force* in Florida at the date of that act, is provided for by the act. Now, I want to say one word more—and that is, if the Spanish laws would have continued in force without such provision by act of Congress recognizing them, why were they specially *reënacted* by this act? If this act was not necessary to give validity to the Spanish laws—if they continued in force, and would have continued in force without that act—why were those laws deliberately *reënacted*?

Mr. WALKER. They were not reënacted. The act was merely a *declaratory* act, in reference to laws that *were in force*, and would have remained in force without it. The act *acknowledges* them to be in force, and not to have been abrogated by the cession of Florida.

Mr. BERRIEN. If they would have continued in force without it, where was the necessity for its passage?

Mr. WALKER. Well, did the act put in force any that were *political* laws? for the Senator only contends that such were abrogated. No, sir; it declares that the laws *then in force* should continue in force. It does not put any in force; it merely admits that they *are in force;* and that is the very position that I take. And not only the judicial decisions have said so, but the Senator himself has said so, if he adopts the language of that act

Mr. BERRIEN. My proposition, if the Senator will allow me, is, if these laws would have been in force without the provisions of that act, where was the necessity for passing it?

Mr. WALKER. I have answered that already, about a dozen times. It declares the truth of my position, and admits that the laws of Spain *were in* force, and declares simply that, being *in force*, they should continue so. If they were in force, as the act admits, pray *when* would they have ceased to be in force without the act? Annexation had already taken place. It is evidence in favor of my position, and not of the Senator's. I tell him, again, the act was declaratory and supererogatory.

But, sir, I will now quote a case decided in a slave State—in the State of Mississippi—where the principle of law I have laid down was decided in a case where slavery was the question directly involved. The case goes even further than the Supreme Court has gone. I will ask the attention of the Senator from Mississippi [Mr. Davis] to it. The court says:

"The facts in this case are not controverted; that the three negroes *were slaves in Virginia;* that in 1784 they were taken by John Decker to the neighborhood of Vincennes; that they remained there from that time until the month of July, 1816; that the ordinance of Congress was passed in the month of July, in the year 1787; and that the constitution of the State of Indiana was adopted on the 29th June, 1816."

"These are the material facts; but the law arising out of the ordinance *treaty of cession of Virginia* to the United States of that district of country, and the *Constitution, is controverted*. To clear away the difficulties arising from extraneous matters, and to place the grounds of this opinion

plainly before the court, a short history of the country will be necessary. The country was within the *chartered limits of Virginia;* but from the year —— until the peace of 1763, it was subject to, and claimed by, *France.* By the peace of 1763, it was ceded to *Great Britain.* It will appear, by reference to the proclamation of General Gage, in 1775, and to the acts of Col. Wilkins, in granting lands as Governor of Illinois, that it was under a government distinct and separate from the then colony of Virginia. During our revolutionary war, it was *conquered by the arms of Virginia;* but there has been exhibited no evidence to show that *the laws of Virginia were ever extended to that country after its conquest*, or that Great Britain, after the treaty of 1763, by which she obtained it, ever changed the laws then existing in the province. I have carefully examined the acts of Virginia, and can find no *provision extending its laws to that district of country.*"

Now, bear in mind, this is the conquered territory of Virginia. Had Virginia the right to take slaves into that territory? What says the court?

"I think, then, that it is *undeniable* that the laws, as they existed while it was a province of *France*, were the municipal laws of the country."

Here the court ran through three stages to get at the law. Well, sir, here is a further dictum in this case:

"From the facts, authorities, and reasons advanced, these consequences result: that, as conquered countries, they were subject to such laws as the conquerors chose to impose; *that the Legislature of Virginia, not making any change in their laws*, the ancient laws remained in full force; and that the 'titles, possessions, rights, and liberties' guarantied, were those they enjoyed prior to the conquest, the '*lex loci*,' *not as citizens of Virginia*, but as a provincial appendage."

Sir, this decision grants that for which I am contending. The South asserts that, under the Constitution, she has a right to take slaves into these new territories, notwithstanding the laws there prohibit slavery. Yet, sir, her own courts decide that she may not take them. What becomes of the claim? It is worth nothing—it falls to the ground by virtue of her own judicial authorities; for this same case decides also that *the Constitution has nothing to do with the matter.* The court says: "Why, we are told it is inconsistent 'with the Constitution of the United States." "*The 'Constitution of the United States has nothing to do 'with the question.*"

Mr. DAVIS, of Mississippi. I would remind the Senator from Wisconsin, that we never fall into greater error than when we attempt to run a parallel with diverging lines; and I consider that the Senator has fallen into a similar mistake, in citing the case to which he has alluded, as bearing upon the subject in hand. He is surely a lawyer, and one of sufficient acuteness, it would appear to me, to distinguish between the case decided in Mississippi, concerning the laws in Virginia, which he has quoted, and that of taking slaves into California. The case in Virginia was one where she had sovereignty before the foundations of the Constitution were laid.

Mr. WALKER. The Senator from Mississippi always speaks so very positively——

Mr. DAVIS. Because I am very certain.

Mr. WALKER. The Senator, as I was saying, always speaks so positively, and with an air —I say it with no disrespect—which seems to say, "Nothing more can be said"—"I know it all"—"it must be as I think." It is true, sir, that in the case which I have read, the slaves were taken to Indiana before the Constitution was adopted; but so much the worse for the Senator's logic. Virginia was then a slave country—the territory was hers—the slaves had been taken from Virginia, and not even the ordinance of 1787 was yet in the way; yet the court of the Senator's State passed through the sovereignty of *Virginia and England* to that of France, and decided the case under the laws of the latter; and herein lies the answer to the Senator from South Carolina, [Mr. BUTLER,] when he puts the case of a territory conquered by a nation of slaveholders.

But I will now take another case—one where the slave was taken to Indiana, in 1807, after the adoption of the Constitution. I will read it, as appropriately bearing upon the question before us; and I think it knocks the very brains out of the argument of the Senator from Mississippi, [Mr. DAVIS.] I read from the case of Rankin *vs.* Lydia, 2 Marshall's Kentucky Reps., p. 470:

"Lydia was born a slave in Kentucky, in the year 1805, and belonged to John Warrick, a citizen of this State, who removed hence, in the year 1807, to the late territory of Indiana, where he settled, shortly after the 17th of September of that year, together with Lydia and her mother, whom he took with him, and whom he kept till the 6th of December, 1814, when he sold his right to Lydia, in that territory, to Thomas Miller, likewise a resident there, who sold her to Robert Todd, a citizen and resident of Kentucky, *who brought her to Kentucky*, and sold her to John W. Rankin, the defendant below, now plaintiff in error, who still holds and claims her as a slave for life, she being a person of color, and he having had knowledge, when he purchased her from Todd, of the foregoing facts."

On this state of the case, the court says, (the issue being on the freedom of Lydia:)

"In deciding this question, we disclaim the influence of the general principles of liberty which we all admire, and conceive it ought to be decided *by the law as it is*, and not as it ought to be. Slavery is sanctioned by the laws of this State, and the right to hold them under our *municipal* regulations is unquestionable. But we view this as a right existing by positive law of a *municipal* [*mark you, not political*] character, without foundation in the law of nature, or the unwritten and common law. If, by the positive provisions in our code, we can and must hold our slaves in the one case, *and statutory provisions equally positive decide against that right in the other, and liberate the slave, he must, by an authority equally imperious*, BE DECLARED FREE."

In this case, sir, it will be found that the slaves were taken to the Indiana territory *under local laws permitting it;* and yet the court decided that the slaves became free. It is true, the court decided they became free by virtue of the ordinance of 1787; but that was nothing more than a local law for the territory, *forbidding slavery.* Now if, as is contended here, the Constitution makes slavery a *political* institution, it would have overridden the local law of the territory, as it is now contended it does the local law of California and New Mexico. But the court decided otherwise; and so it would in the present case; for I have certainly shown that in California and New Mexico there is quite as strong a local law against slavery.

It is claimed, Mr. President, that the slave laws of the United States *are* of a political character. All the slave laws of the UNITED States, of this kind, are to be found in the Constitution. Now, in what respects are *they* found? Certainly in but three. One is, that provision in the Constitution which regulates the computation or enumeration of the people as a basis of representation. Now, sir, when is that provision of the Constitution fulfilled? Why, when we *include three fifths of the slave population, in fixing a basis for representation.* But, again, in regard to direct taxation, how is that fulfilled? Why, of course, by enumerating three fifths of the slave population, in forming a basis of apportionment of taxes, when we shall resort to direct taxation. Here the operation of the Constitution ends, as well as our duty under it in this respect. The other provision is in regard to fugitive slaves. This is fulfilled whenever the States (or Congress) make provision for the extradition of fugitives. Here, too, the operation of the Con-

stitution ends in this particular, as well as our duty under it. What, sir, is there in either of these provisions, or all together, which gives this institution of slavery any of the features of a political law of this country? Nothing. Under our allegiance, we are bound only to the enumerations I have mentioned, and to the enactment of extradition laws Here our oaths and our allegiance to slavery end. This our allegiance to the Constitution binds us to do; but, sir, does it consequently follow that, because we fulfill these obligations of the Constitution throughout our Union, in conformity with our oaths, our allegiance also binds us to suffer slavery to override, not only the laws of Mexico existing in these territories, and plant itself where it does not exist, but also the power of this Government to prevent it? Unless this be so, slavery is no more a *political* institution than a navy yard. We have duties to perform to both; but we are no more bound to the one than the other to spread it, or to suffer it to spread itself everywhere in newly-acquired territory. We fulfill our duty to this Union and to slavery in the particulars I have mentioned. We have nothing further incumbent upon us to perform in relation to the subject. If the Constitution requires of us the performance of any other duty to slavery, it is to discountenance it, which view is developed in a decision made in Louisiana. I will read an extract from the decision which declares it—(Martin's Louisiana Reports, volume 2, pages 403 and 404.) In speaking of the Constitution, the Judge says:

"This instrument declares that 'no person held to service 'or labor in one State, under the laws thereof, escaping into 'another, shall, in consequence of any law or regulation 'therein, be discharged from such service or labor.' Hence the implication is strong, that such persons who do not escape, but whose owners voluntarily bring them, may be discharged by the laws or regulations of the State in which they are so brought; *for if this could not be so, of what use would be the prohibition?*"

I think the application is plain, sir, that only when a slave has escaped has his master the right to recapture him; that when voluntarily taken from under *laws* which tolerate slavery, to jurisdictions which do not, the slave is free; and that we are not bound to legislate in favor of slavery anywhere, *except when it escapes*, but ought to discourage it in every place to which it is proposed to take it voluntarily.

I come now to another branch of this argument. It is claimed by the South, that her citizens have the right to take their slaves to the territories *as property, on an equality with other property.* The highest claim for this right is that which asserts that slavery is based upon the law of nature and of God; thus placing the right to slave property on the foundation of all other property. It is thus put by the Senator from Mississippi, [Mr. DAVIS:]

"It is enough for me, that here we are not called upon to legislate either for its amelioration, or to fix the places in which it shall be held, and certainly have no power to abolish it. It is enough for me elsewhere to know, *that it was established by decree of Almighty God, that it is sanctioned in the Bible, in both Testaments, from Genesis to Revelation,* that it has existed in all ages, has been found among the people of the highest civilization, and in nations of the highest proficiency in the arts."

I answer, that slavery is a purely *local* institution; that it has no foundation in nature, or support in the laws of God; that it exists, and can only exist, by virtue of the local laws of the States.

I will read, as authority on this point, from the same Mississippi case already quoted, (page 42.) The court says:

"Slavery is condemned by reason and the laws of nature. *It exists, and can only exist, through municipal regulations.*"

Here is another case in the same State, where the same point is decided. It is the case of the State of Mississippi *vs.* Isaac Jones, (Walker's Reps., 86.) The court decides that

"The right of the master exists, *not* by force of the law of nature or of nations, but by virtue *only* of the *positive law of the State.*"

Here are two direct contradictions, from his own State, of the Senator's assertion, that the institution is founded on the law of nature and of God.

Mr. DAVIS. I take my argument from the Bible.

Mr. WALKER. I was not quoting from the Bible, although I think that holy book would be found but a poor support of slavery, if the following be its true condition—the description of which I find in another case in the State of North Carolina, (2 Dev., 266:)

"The *end* is the profit of the master, his security, and the public safety; the *subject* one *doomed*, in his own person, and his posterity, to live without knowledge, and without the capacity to make anything his own, and to toil that another may reap the fruit. * * * Such obedience is the consequence only of uncontrolled authority over the body."

The Bible tells me that God gave to man dominion and "uncontrolled authority over the bodies of beasts," but not over the bodies and *minds* of his fellow man.

But to get back to the law, and the legal view of the foundation of slavery. The next authority which I read is from 2d Martin's La. Reps., 402 and 403:

"The relation of owner and slave, is, in the States of this Union, in which it has a legal existence, *a creature of the municipal law.*"

My next authority, is the case in 2d Marshall, quoted before for another purpose:

"Slavery is sanctioned by the laws of this State, [Kentucky;] and the right to hold them under our *municipal* regulations is unquestionable. But we view this as a right existing by positive law of a *municipal character, without foundation in the law of nature, or the unwritten and common law.*"

If these decisions do not sufficiently controvert the Senator's position, of the natural or divine property foundation of slavery, let us try again. I quote again from the North Carolina case. The language is strong, but I read it in no offensive sense to the Senator from Mississippi. After speaking of the condition of the slave, as before read, the court says, (2d Dev., 266:)

"What moral considerations shall be addressed to such a being, to convince him of what it is impossible but that the *most stupid must feel and know can never be true*, that he is thus to labor *upon a principle of natural duty*, or for the sake of his own personal happiness."

This, sir, is a decision of the court of a slave State; and when gentlemen claim here that the institution of slavery is founded on the law of God and nature, I beg leave to refer them to the opinions of the judiciary of their own States. They are supposed to give their opinions dispassionately and impartially, without reference to the passions or feelings of men, and with an intimate knowledge of what slavery is. This judge depicts in terms so bitter the institution of slavery, that if any northern man were to use similar words here, he would be called *fanatical.* This same judge was at the time deciding the pinciple that to shoot and kill a slave, and a woman, too, was not murder—nay, not even an assault and battery. That, sir, was in 1829—the same year and about the same day that the poor, denounced usurper GUERRERO

issued his decree for the abolition of slavery in Mexico. I do not say it by way of reproach, but it is a strange coincidence.

Mr. DAWSON. Does the Senator say that is consonant with the law of North Carolina?

Mr. WALKER. The principle is decided in this case that such is the fact.

Mr. DAWSON. But the law is not so now.

Mr. WALKER. I am happy to hear it. I quoted this simply for the purposc of showing that it had been denied in the most solemn manner that the institution of slavery or the right to hold slaves existed in the laws of nature or of nature's God. The case I referred to was the case of the State *vs.* Mann, and, as reported, is as follows:

"The defendant was indicted for an assault and battery upon LYDIA, the slave of one ELIZABETH JONES. On the trial, it appeared that the defendant had hired the slave for one year; that during the term the slave had committed some small offence, for which the defendant undertook to chastise her; that, while in the act of so doing, the slave ran off, whereupon the defendant called upon her to stop, which being refused, he shot at and wounded her. A verdict was returned for the State, and the defendant appealed."

In the court above, the doctrines were held as I have asserted, and the judgment of the court concludes:

"Let the judgment below be reversed, and judgment entered for the defendant."

Mr. BADGER. If the Senator will allow me, I will state, that in North Carolina, it is held undoubtedly, by the judgment of her highest tribunals, that, by the common law of North Carolina, the homicide of a slave is an offence, either murder, or manslaughter, or excusable homicide, just as it is in regard to the killing of free persons.

Mr. WALKER. I have read what the case was. Being indicted, the prisoner was convicted; he took an appeal to the court above; the *court set him at liberty*. After describing what slavery is, as I before read, the court goes on to say:

"Such services can only be expected from one who has no will of his own—who surrenders his will in implicit obedience to that of another. Such obedience is the consequence only of uncontrolled authority over the *body*. There is nothing else which can operate to produce the effect. The power of the master must be absolute to render the submission of the slave perfect. I most freely confess my sense of the harshness of this proposition—I feel it as deeply as any man can. And as a principle of moral right, every person in his retirement must repudiate it. But in the actual condition of things, it must be so. There is no remedy. This discipline belongs to the state of slavery. * * * * We cannot allow the right of the master to be brought into discussion in the courts of justice. * * It will be the imperative duty of the judges to recognize the full dominion of the owner over the slave, except where the exercise of it is forbidden by statute."

This gives to the master absolute dominion over the body of the slave.

Mr. DAWSON. I think the honorable Senator does great injustice to a large section of this country, by saying that the killing of a negro is not a criminal offence.

Mr. WALKER. I said that the *principle* had been decided by the Senator's courts.

Mr. DAWSON. The shooting and killing of a negro is as much a crime, as the killing of any other individual. It is so considered in every State. There is scarcely any difference made between the killing of a white person and the killing of a slave; and it is wrong that a contrary impression should be made upon the public mind by a statement so inconsistent with what is the fact.

Mr. WALKER. I am glad to hear the explanation. This decision to which I have referred may be incorrect—it may not be law.

Mr. DAWSON. If the Senator will read the case entirely through, he will find that it goes upon an entirely different principle from that which he supposes.

Mr. WALKER. It appears from this decision that a master has unlimited control over the *body* of a slave.

Mr. DAWSON. It gives him no power to detroy a slave, as in ancient Greece and Rome. An act which deprives a slave of life is placed upon the same footing as that which takes away the life of a free person.

Mr. WALKER. I am very glad to hear that such is the law now.

Mr. BUTLER. The dominion of a master over his slave is something like the control of an officer over a soldier. The officer, I presume, could be indicted for killing with malice aforethought; and in all cases of which I have any knowledge, it is held to be murder where a master, with malice aforethought, takes the life of his slave; but as the Senator from Georgia says, the master, having the absolute control over the slave, has a right, if he escapes, to arrest him; and, if he resists, he has a right, as the officer would have a right in regard to a soldier, to cut him down with the sword. And but for some power of this kind, I suppose we could scarcely control our slaves; but it is very rarely that a master has been indicted for killing a slave. Where a slave has been killed, it has usually been by some irresponsible person, or by the agency of some person who is a stranger to the domestic government of the slave. It is extremely rare that a master is charged with killing his own slave, and still more rare is it that he is charged with killing a slave born in his own family.

Sir, the relation between the master and slave is not fully understood in the non-slaveholding States. There is a degree of feeling on the subject that would revolt at anything of the kind. I know that in the case that has been quoted from North Carolina, there was a man who hired a slave, and the slave attempting to escape from his dominion, he very foolishly shot the slave. Nevertheless, the master was indicted for thus shooting him—indicted for homicide.

Mr. CHASE. He was indicted for assault and battery.

Mr. BUTLER. Was the negro killed?

Mr. CHASE. Not at all.

Mr. BUTLER. Oh, well! the impression was made on my mind that the man shot the negro down. I suppose he shot him with small shot, and did not hurt him much. [Laughter.]

Mr. WALKER. I do not know what kind of shot she was shot with, or with what kind it is permissible to shoot slaves.

Mr. DAWSON. I would merely observe, sir, that if these things are read by the Senator from Wisconsin, for the purpose of showing the want of humanity on the part of the slaveholders of the South, he is doing them great injustice. It is not true in point of fact. I know the Senator from Wisconsin does not make the charge.

Mr. WALKER. Certainly not.

Mr DAWSON. But the tendency of his observations will be to create that impression. The working of the system ought to be understood throughout the country, as it is understood at home. I am no more responsible for the evils which may arise from it, than the gentleman before me; but as a man, as a Christian, as a philanthropist, I have only to make the best of the institutions around me; and it is unkind and ungenerous for those who are

not acquainted with the institution, to cast an unfounded imputation upon us. The great difficulty is, that they intermeddle with that which they do not understand. You may discuss the abstract question of slavery, if you please; but when you come down to discuss the private relations, the social equality, kindness of feeling, and humanity, which exist between master and slave, then you intermeddle with an institution that has been approved by your ancestors, as well as mine—you interfere with a matter which affects the sensibilities of us all: there you must stop, because those are responsibilities that are personal in their character—they are responsibilities that we feel not merely as citizens, but as Christians, as patriots, as philanthropists. We have the right to control and manage our slaves, and we are wielding that right for the best and most humane purposes; and if you would leave us alone, we would carry it on in a way not to affect your consciences, and I trust in God not to increase any excitement which may have been produced heretofore.

Mr. WALKER. After this long episode, sir, I will again repeat that I quoted this decision for no such purpose as the Senator from North Carolina supposes. I quoted it to show that this institution was neither a political law of the land nor a species of property based on the laws of nature or of nature's God; and it is the language of the learned Judge on the subject of slavery, that Senators must deprecate, not mine; for I used none with reference to that question in the way complained of. I was speaking, when interrupted—or rather was instituting a comparison between what *this learned Judge*, not the people of North Carolina, had done, and what GUERRERO had done. If anything else has come out, it has been extorted by interruptions. But I must again refer the Senator from Mississippi to the deni l in the case, of his natural or divine foundation for slavery.

Mr. DAVIS. The Senator has just made some remark I do not exactly understand—some personal allusion.

Mr. WALKER. I think not. I merely called the Senator's attention to what I read.

Mr. DAVIS. Why read it so particularly to the Senator from Mississippi?

Mr. WALKER. Because it has a bearing by way of reply to his argument.

Mr. DAVIS. Does the Senator mean to read it to me as an answer to my argument?

Mr. WALKER. I read it in order to show that the institution of slavery is not supported by the law of nature, as the Senator had claimed.

Mr. DAVIS. But I ask whether the Senator means to adopt that language and apply it to me?

Mr. WALKER. By no means. I read it as the statement of the Judge; and I so stated half an hour since. If the gentleman will pay due attention to my remarks, he will find that I will give no reasonable cause of offence. When I do, it will be for a greater cause than the Senator has given me yet; and when I do, I shall mean it, and be understood without questioning. If the Senator understood me as applying the term "stupid" to him, he was entirely mistaken. I disavowed that long ago.

[Without concluding, Mr. WALKER gave way for a motion to adjourn.]

IN SENATE, *Friday, March* 8, 1850.

Mr. WALKER resumed and concluded as follows:

Mr. PRESIDENT: I come now, sir, to treat of this question in some of its more general features. It is contended upon general principles, by our friends of the South, that under the general law of the equality of property, they have the right to enter the acquired territories, and to take with them their property in the same manner that the citizens of other States have the right to take theirs. Without going at any great length into this subject, I think there are in this many fallacies which might easily be exposed. The principal fallacy is this: that the right to the involuntary servitude of the slave is not, as claimed, (as I have shown by the judicial authorities of the slave States,) a natural or universal right. It is not a right according to the law of nature, or according to the unwritten common law. This brings us, then, to the conclusion, that slavery is a local institution, peculiar to the States in which it exists. It has no *extra* territorial influence or extent whatever; and when our friends claim the right to take their slaves to California and New Mexico, or to any other territory of the United States, they are claiming nothing more nor less, as has been frequently remarked in Congress, than the right to take their local laws or local institution. I do not—I cannot—see how they are to decide among themselves which of their local institutions are to go. Are they to be the local institutions of the States in which the slave is made a part of the realty—where the slave descends with the real estate? or is it the institutions of a State where he is mere personal property? Is it to be the institutions by which the slave is amenable to one code of criminal laws, or where another code of criminal laws exists. These are difficulties to be settled among themselves; and it brings me to this conclusion, that any one of the free States might just as well claim to have its institutions carried there, as the South. There are States which have institutions of as peculiar a character, perhaps, as the institution of slavery—using the term "peculiar" as applied to that which is confined to a particular locality. Take the great State of New York: she has an institution in which she has property of as much pecuniary value invested, as any slave State has in the institution of slavery—I allude to her general banking institution. Should we not think it an enormity—would not the South think it an absurdity—if the State of New York should claim that she had a right to go with her banking property into the territories of the United States, merely because that was her property in her own State? Would it not be an enormity if New York, not being permitted to do this, should be continually threatening, both in and out of Congress, to dissolve the American Union? But gentlemen of the slave States seem to be unwilling to recognize the local institutions of their sister States, while they claim that theirs shall be recognized to the fullest extent. I deduce from this the argument, that the Constitution of the United States, in regard to slavery, no more overrides and abrogates the laws of California, which existed at the time of the acquisition, for the benefit of slavery, than for the benefit of the banks of New York, or of the lotteries of some other States of this Union. If it overrides and abrogates the laws in favor of slavery, it must override and abrogate them in favor of free schools, banking institutions, lottery institutions, and other institutions of various States in the Union; for as matters of property—as matters of private and public right—they are just as much recognized by the Constitution, as the institution of slavery, and a great deal more; for they do not

require the Constitution of the United States to impose upon Congress or the States the injunction to surrender their property; but it must be surrendered as a species of property, existing by virtue of the laws of nature, or the common law, if you please, under the general comity of nations, without any constitutional guaranty for the purpose. They stand, then, upon a broader basis—a firmer basis—than the institution of slavery, except in the local district where it exists.

I was really surprised to hear the Senator from Mississippi, [Mr. DAVIS,] and other Senators, quote the correspondence between Mr. Trist and Mr. Buchanan, to prove that slavery existed by the laws of Mexico. If that correspondence proves anything, it proves conclusively that slavery was then abolished, and did not exist by law. Let us turn our attention to the language of the extract which has been read:

"Among the points which came under discussion, was the exclusion of slavery from all territory which should pass from Mexico. In the course of their remarks on the subject, I was told that if it were proposed to the people of the United States to part with a portion of their territory, in order that the *inquisition* should be therein *established*, the proposal could not excite stronger feelings of *abhorrence* than those awakened in Mexico by the prospect of the *introduction of slavery* in any territory parted with by her. Our conversation on this topic was perfectly frank, and no less friendly; and the more effective upon their minds, inasmuch as I was enabled to say, with perfect security, that although their impressions, respecting the practical fact of slavery, as it existed in the United States, were, I had no doubt, entirely erroneous, yet there was probably no difference between my individual views and sentiments on slavery, considered in itself, and th se which they entertained."

Now, sir, if we owned a portion of territory in which the inquisition *existed*, and were about to cede it to another power, would it excite any very strong feeling of *abhorrence* that is was to be *introduced* there? Not at all. Why, then, did it excite abhorrence in Mexico that slavery might be introduced into the territory, but for the consideration that slavery had been there *abolished*, that the chains had been taken off, and the slaves been rendered free? Abhorrence was excited lest it should be *introduced*. A proposition to allow it to remain, if it *existed*, would have excited no abhorrence at all. They feared that slavery would be *introduced* when the territory passed from under the free government of Mexico. And this is the correspondence brought to show that slavery did, in fact, exist! If it did, it was folly for the Mexican commissioner to speak of any abhorrence to be excited.

If I was surprised at this, I was somewhat amused, after the Senator from Mississippi had spent so much time in proving that slavery did *exist* by law in California, that he should, on the second day of his speech, go on to show how much Mexico had been degraded *since the abolition of slavery* in that country. He speaks thus:

"I therefore deny, what is affirmed by the Senator from Kentucky to be his second truth, and claim, in evidence of that denial, that the produce of Mexi o, *when slavery existed there*, was far beyond what it is at present. * * * Mexico has, *since the abolition of slavery*, so sunk into her present impoverished condition, that, to derive money for her support, she sold her territory to the United States; and it is proof that cannot be denied of the value of the institution of slavery in a soil and climate like hers."

This sounded to me very much like unsaying all the Senator had said.

If the position of things is as I have stated—if slavery, and the slave-trade, have been abolished—if slavery, and the slave-trade, have been prohibited, and that, not only according to the decision of the Supreme Court, but of the courts of the slave States themselves, those laws of abolition and prohibition are now in force—what is the state of things that we arrive at? The Senator from Mississippi answers the question, when he makes use of the following language:

"Why, sir, what choice is there between this and the Wilmot proviso? I, for one, would prefer the Wilmot proviso. I demur, sir, after the House had killed the Wilmot proviso, against any claim to a dukedom for him who brings the lifeless corpse into the Senate, and least of all have I any thanks to return to the Senator from Illinois, for the ground which he says he has assumed among his constituents, in opposing the Wilmot proviso—that it had no application, because slavery being already excluded from the territories, it was wholly unnecessary to prohibit it by new enactment.

"Sir, I prefer the Wilmot proviso to that position: I prefer it because the advocate of the Wilmot proviso attempts to rob me of my rights, while acknowledging that, by the admission, it requires legislation to deprive me of them. The other denies their existence."

I agree with the Senator from Mississippi, perfectly, that the Wilmot proviso is better for him, but for a very different reason from the unkind one which he gives. It is not because the Wilmot proviso would rob him of anything, for one cannot be robbed of what he has not, but because it assumes the burden of the affirmative by those who would restrict slavery, while my position and doctrine would throw the affirmative on those who would extend it. The Senator from Virginia [Mr. MASON] seems to have anticipated the necessity for taking the affirmative, when he spoke the following:

"I do not mean, sir, to detain the Senate by a discussion; but I deem it my duty here, at the very outset, to enter a very decided protest, on the part of Virginia, against such a principle of law. It would take away the whole ground at once that our people rest upon."

Precisely so; I said the same thing to my constituents; but corrupt politicians and hireling presses had got up such an infernal hubbub about me, that I was not believed. Perhaps the Senators from Virginia and Mississippi may be more successful.

The position of the South last winter was more magnanimous than now, and was met upon my part with a corresponding magnanimity. They only asked that the matter should be left to the Constitution of the United States. The proposition I offered, extended the Constitution to that country. I took them at their word. They contended that if the Constitution was extended there, the right to take and hold slaves there would be extended also What would have been the effect, is not for me to determine; but the judiciary of the country seems to have settled it pretty conclusively. I believed, sir, at the time, that what the North required was, that the condition of things in New Mexico and California should remain as it was. The South were content with that. Upon that we met—upon that we voted. It turns out, sir, that the position which I viewed myself as standing in, was a stronger one than if the North had assumed the affirmative, and proposed to vote the prohibition into the territories. My gratification is unbounded to find myself now sustained by the great statesmen and jurists from Kentucky and Missouri, [Messrs. CLAY and BENTON,] as well as many others; and by the unwilling admissions of the distinguished Senators from Virginia and Mississippi, [Messrs. MASON and DAVIS]

The Senator from Mississippi has given his views, as to the causes which are to lead to the close of our career, and have already led to the dissatisfaction between the two extremes of our Republic He says:

"But, sir, if this last chapter in our history shall ever be written, the reflective reader will ask, whence proceeded

this hostility of the North against the South? He will find it there recorded, that the South, in opposition to her own immediate interests, engaged with the North in the unequal struggle of the revolution. He will find again, that when northern seamen were impressed, their brethren of the South considered it cause for war, and entered warmly into the contest with the haughty power, then claiming to be mistress of the seas. He will find that the South, afar off, unseen and unheard, toiling in the pursuits of agriculture, had filled the shipping, supplied the staple for manufactures, and enriched the North. He will find that she was the great consumer of northern fabrics—that she not only paid for these their fair value in the markets of the world, but that she also paid their increased value, derived from the imposition of revenue duties. And, still further, if he seeks for the cause of this hostility, it at last is to be found in the fact, that the *South held the African race in bondage*, being the descendants of those who were mainly purchased from the people of the North. *And this was the great cause.*"

If ever the historian writes that as the cause of the difficulty, I need no stronger proof than I can produce from the lips of the Senator from Mississippi himself, that it will be manifest injustice to the North. He says, in his speech of January 29:

"And that I may be understood upon this question, and that my position may *go forth to the country* with this so-called compromise, *I here assert, that never will I take less than the Missouri compromise to the Pacific ocean, with a specific admission of the right to hold slaves there* until they have been admitted into the Union. I will never consent to any proposition—I forbear a conclusion that I thought of making."

What that conclusion was to be, I know not; but we have heard in both houses of Congress this conclusion to such sentiments, that "the South 'will not submit to such proceedings:" that "she 'will resist to the last extremity, and at all and 'every hazard." This has become the stereotyped conclusion in all the southern portion of the country. I hope this is not the conclusion which the Senator forbore. But, if this Union shall be dissolved, and the Republic fall, and its history shall be truly written, that "last chapter" will read that the Republic fell under a struggle, on the part of the South, to enslave that which was free; while the effort of the North was but to perpetuate that liberty which already existed. The witness will be the Senator from Mississippi.

It has been often said here, that it will be cruel as well as unjust to pen up slavery in a narrow space, and by that means extinguish it by a lingering death. An investigation of the facts will show, that the institution is not much confined at present; and to show this, I have prepared the following table:

States.	*Acres.*
Florida, January 1, 1849, had land unsold.....	36,989,272
Arkansas " " " "	30,411,483
Louisiana " " " "	26,491,815
Mississippi " " " "	16,711,859
Alabama " " " "	21,659,847
Missouri " " " "	33,396,840
Texas has unsold at least.....	150,000,000
	315,711,116
In remaining eight slave States, land unoccupied—supposed.....	78,902,779
Amount of unoccupied land in slave States....	394,613,895
This reduced to farms of 160 acres, would make 2,436,336 farms yet unoccupied in the slave States—equal to 160 acres to be worked by every slave, man, woman, and child, in the Republic—besides what they now occupy, which is about.....	280,000,000
Land occupied and unoccupied in slave States.	674,613,895
Whole area of free States.....	290,777,600
Excess in slave States.....	383,836,295
Occupied land in slave States, about.....	28,000,000
Unoccupied land in slave States, over whole area in free.....	103,836,295

The "*institution*" must be awfully crowded for fresh air.

I wish to address a few remarks to the Senate upon the subject of the admission of California. They shall be of a very general character, and I will introduce them by reading an extract from the late speech of the Senator from South Carolina, [Mr. BUTLER:]

"But to evade this Wilmot proviso, the people were left in a state of anarchy; and under an operation of causes worse than the Wilmot proviso, they are claiming privileges now, by *usurpation*, to which they are not entitled. Is it not a usurpation in any point of view in which we can regard it? Why, sir, *in whom was vested a sovereignty over the citizens and the inhabitants* under the treaty of California? *In the United States.* And I think the honorable Senator from Mississippi [Mr. DAVIS] the other day demonstrated that—and he put the proposition in so strong a point of view, that I think I could not be misunderstood; and the Senator from Georgia has left no ground for others to occupy. I venture to say that there are but very few individuals upon this floor, who will contend before any tribunal that could take cognizance of the subject, that a sovereignty was not vested in the United States, *to be exerted through the agency of their representatives in Congress.*

"The right claimed under the doctrine of self-government, is *extra-constitutional, and has no sanction for its exercise.* When analyzed, it is a right to dispense with the prescriptions of the Constitution, and to use a power in derogation of the rights of the States of this Union, in whom was vested the high sovereignty and eminent domain."

Now, sir, if the Senator will compare these remarks with the almost universal character of the remarks of Senators from the South last winter, he will find that he has unsaid the whole of it. If he will compare this with the doctrine of the resolutions of his colleague in 1847, and his speech thereon, he will find that he is in direct conflict with it. If he will take the *Union* newspaper, published about one year ago, he will find that he repudiates the very thing which was then contended for. We were asked, almost in terms, why we could not let California alone—let her adopt a constitution for herself—and thus let the question be settled? I fear this doctrine will not be very grateful to the ears of the Senator from Michigan, [Mr. CASS,] who delivered a speech some days since, the doctrines of which he now hears condemned by those for whom he has so kindly ventured. If you will compare the doctrines held a year ago, not only by the public press of the South, but by members upon this floor, with those held now, you will find that any one who should attempt to follow the meanderings of the South upon the subject of slavery, will have to assume a condition himself very near that of a slave. He must change his views as often as the position of things changes adversely to the interests of slavery. Just hear the Senator from Louisiana, [Mr. DOWNS.] If his language had been used by a northern man, I will venture to say it would have been taken by him as an insult to the South. He says:

"But, Mr. President, if this were not the case, there are other reasons why the people of the South should not, and never will willingly, consent to receive this State, even if it was a spontaneous movement of the people, without any action of the Government. It was a case in which one half of the Union had no opportunity of being heard. *you took snap judgment on them.* Nine tenths of the white men who wished to go there, could not do it. It is much more expensive to transport slaves. *We have not the ships and the means*—we have not been growing rich out of this Confederacy. *You of the North have more stores of wealth to stock your expeditions. We must travel by land, in our own carts and wagons.* We cannot go on so large a scale as the North. We cannot build whole houses and put them on board ships, and take them to California. *We are not so rich as all that;* and the consequence has been that, even if slavery could be admitted by law, *those who had no slaves, and did not want them, got there first, and took possession.*"

This is not a very favorable picture of the prosperity and glory of the South—not a very elegant view of the elegancies, luxuries, and conveniences of the "institution." But it is not a commentary

by me, sir, but by the Senator from Louisiana; and a strange one it is. What would the Senator have? Would he have the elastic, bounding activity of the North, to await the slow and sluggish movements of the slave-labor machinery of the South, in settling the territories? Does he expect this? If so—mark my words—he will expect in vain, until the last clod has fallen upon the coffin of the last slave, whose servile foot imprints the southern soil. It will not wait. You cannot chain the active energy of the North. You could not chain that of a FREMONT. He did not wait to provide "transportation" for slaves; but calling about him his hardy countrymen, he braved the perils of want, hunger, thirst, and mountain snows; nor was he appalled when death itself strewed victims on his path. His noble fortitude and energy have been (as they deserved) rewarded by an active, enterprising people. Though of the sunny South, he possessed the *useful* daring and chainless soul of the North. A GWIN, too, broke the toils that bound him to the corpse of slavery. He, too, has been rewarded.

But, sir, under whose auspices was this State organized? A southern President, a southern Secretary of State, a southern Secretary of War, a southern Secretary of the Navy, a southern Attorney General here, and a southern vice-consul, sent there, as was feared by the North, to settle this whole controversy in favor of the slave interest. It has all been in southern hands; and yet gentlemen tell us the South has been unfairly treated; "that snap judgment" has been taken on them; that they have been deprived of their rights, and are about to have the seal of *inferiority* stamped upon them! Away with such clamor! Mankind will never hear it with patience or sympathy.

The South tell us that if California is admitted, they must "resist at every hazard and to the last extremity." They cannot mean this. They have shown themselves in the history of their country to be men of too much sense. They have shown themselves to be proud of their reputation. They have all that a people can have to be proud of, though they have something to deplore. And, sir, they will never compel the historian to record the fact, that, because they could not enslave the government of one land, they overthrew and destroyed the freedom of another—and their own.

Gentlemen have given us their views upon the subject of allegiance. Under the practice of those views, neither this Government nor any other Confederacy can endure. What, sir, are these views, as expressed by the Senator from South Carolina, [Mr. BUTLER?] They are, that we owe allegiance to this Government only through the States; that we owe allegiance first to the States, and secondly to this Government. I presume that almost every Senator who expresses these views of allegiance has held public station in some one of the States. I would ask him the character of the official oath which he then took? Was it not first "to support the Constitution of the United States," and then "of this State?" The Constitution itself declares that it, together with all laws and treaties which shall be made in pursuance of it, shall be the supreme law of the land, and that the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding. They come hear and swear to support that Constitution, which makes this Government preëminent above the constitution and laws of any State; and yet they say they intend, should the interests of the State and Union conflict, to violate the Constitution of the United States, and to stand by the State.

Mr. BUTLER. I must ask the gentleman to allow me to interpose and make one remark. That expression of mine has been noticed, I see in northern papers. No Senator upon this floor has thought proper to take notice of it until the present time, and I wish to explain my remarks.

Mr. WALKER. I alluded to various other gentlemen besides the Senator himself—some of them in the House of Representatives.

Mr. BUTLER. Mr. President, when I took my oath to support the Constitution of the United States, I hope I took it as a part of the laws of South Carolina; and so far as South Carolina has delegated to this Government any portion of the powers which belonged to it, they are laws which I am as much bound to obey, as I am the laws of South Carolina. It was stated in some of the northern papers, that I had isolated myself to allegiance to a single State—I had broken and violated the very oath I had taken in the Senate chamber. Now, sir, the power to make war, the power to make treaties, and all those enumerated powers here delegated, under which, in some measure, as a Senator, I must have some control, I regard as having been part of the laws of each and every State in the Union. It is through my State that I am connected with this Government, and it is through that State that I feel myself under obligation to recognize and obey the laws of the Federal Government. If any man has the hardihood to dispute that proposition, I think that there would be very few upon this floor.

Furthermore, I say, sir, that allegiance is a unit. You cannot have two masters, when they give conflicting demands. If I derived through South Carolina my authority to come here, it was to maintain the Constitution of the United States as a part of the bond of this Union, consented to under her hand and seal. And I should like to know what gentleman upon this floor, if a conflict should arise, would say that his allegiance is first due to the acts of Congress, in preference to his allegiance to the State which gives him habitual protection. I have studied this subject. I do not now wish to run it down to its origin; but I will assure the gentleman when he comes to consider it, that he will find it very difficult indeed to regard allegiance as of a double character.

Mr. WALKER resumed. Mr. President, suppose a conflict between the Constitution of the United States and of the States—which is to prevail? Does not the Constitution itself expressly declare, as agreed to by the States, that it shall be the supreme law of the land, anything in the constitutions or laws of the several States to the contrary notwithstanding? Every judge upon the bench is sworn to support the Constitution of the United States as the supreme law of the land. Suppose, sir, that under some infatuation that might seize any State, one of them should pass a law directing the Judge to violate the Constitution of the United States, would the Judge thereby be absolved from his allegiance to the Constitution of the United States? No Government in the nature of ours—a confederated Republic—could stand upon such a foundation. You may amend the Constitution in any respect which the Senator from South Carolina [Mr. CALHOUN] may claim; you may establish what kind of confederation you please; but unless there is an allegiance to the General Government, superior to the allegiance to the States, it must assuredly fall.

The Senator says "allegiance is a unit." If this be so under *our* Government, I must be in a strange kind of a triune "fix." I was born in Virginia, and owe her allegiance by nativity. I have lived in Illinois, and held public station there requiring me to swear to support her constitution. I owe allegiance to her by oath and by adoption. I now live under the dominion of Wisconsin, and in part represent her here. Now, when gentlemen have "resisted to the last extremity, and at all hazards," and to save the Government her friends have rallied to her standard, and I am found among them, (I assure them I shall be, and so will Wisconsin,) if Illinois be among the States to be resisted, and I am caught there, *she* can execute me for treason. But if I escape thence to Virginia, *she* can surely put me to death; for I owe her allegiance by birth and nativity. In vain, in either case, will I say "the Constitution of the *United States is supreme*—I serve that." I will be told *I owed my first allegiance to the States*, and should have *let the Union fall* without a struggle. I ask to which of them? I get no answer—I must die! Away with such ideas of fidelity to our country!

I wish now very briefly to consider the charge which is made against us of aggression. With regard to the restoration of fugitive slaves, there may be cause of complaint. But this is a subject to be provided for by law. Gentlemen of the South, however, accompany this charge against the North with the inquiry, in what has the South made aggressions upon the North? They may not, perhaps, set the same value upon the rights of the humble and obscure, as the people of the North do; but if they will look at the transactions in some of their States, it occurs to me they will find that there has been some aggression, whether they will acknowledge it or not. Suppose that a citizen of Wisconsin or of Massachusetts, colored though he may be, but being a citizen, is entitled to all the privileges and immunities of citizenship in the several States, should visit, in the pursuit of his business, the shores of South Carolina—what hospitality awaits him there? It is imprisonment in the dungeon. Suppose the State from which he goes, not wishing to "*dissolve the Union*" upon this account, "or to resist to the last extremity, and at all hazards," sends another citizen—a white citizen—equally entitled to all the immunities of citizenship, to South Carolina, to inquire why they allowed this infraction of the liberty of the northern citizen—what treatment does he meet with? Why, sir, if *he* is not imprisoned—if *he* is not deprived of *his* liberty—it is because he can make tracks fast enough to save his liberty, and *perhaps* his life. This may not be deemed an aggression upon the North; but aggressions upon the personal liberty of the humble and obscure were once considered aggressions upon the natural rights of mankind. It was such infractions of personal rights that caused the bold barons to rush upon King John, at Runnymede, and extort from him the *magna charta*. It was such, with other aggressions, that brought the head of Charles the Frist to the block, and drove James the Second from his throne and country.

By way of retaliation, not upon the individuals who have injured them, but upon the States themselves, for the acts of irresponsible men, such infractions of the Constitution have been committed upon those who were exercising the rights which the Constitution of the United States, the laws of God, and the laws of nature, gave them. But I do not wish these things to be treasured up. I hope that any circumstances of this kind, which have transpired in the past, may lie buried with the past, and soon die away from the memory of the North—that they may not be treasured up and held as matters of malice. But if it were not for the union which binds the States of this Confederacy together, like a family of sisters, such aggressions as these would plunge this country in blood. We have had an instance, too recently to be forgotten, where one individual, and not an American, being deprived of his liberty, roused the whole nation. I allude to the abduction of Rey.

Mr. President, we have already heard much—how much too much—about a dissolution of the Union; and some appear to think it may be *peaceably dissolved*. Peaceful dissolution! Why, sir, it sounds to me as incongruous as peaceful war. There are some natural monuments—some commercial features of the country—which it is impossible to dissolve or divide. They must forever remain as monuments, in common, of the unity of this Republic, or become the source of civil war and bloodshed when that unity shall be destroyed. How can you divide the great Mississippi river, the great chain of northwestern lakes, and our other channels of commercial traffic and intercourse? It cannot be; nor can they be used in common and in peace—this Union being gone. The first boatman that descended the Mississippi river, would be so treated as to beget war. Instead of the jocund song and "mellow horn," he would be startled by the boom of the gun, and the sight of the shot skipping across his track, as a warning to round to and report—submit to search—exhibit his clearance—to enter, and pay duty or tribute. That vast river would soon become a second Dardanelles—every town upon its banks another Tripoli. Collision and deadly war must follow, as sure as the Mississippi runs, and shall be made to lave the shores of different Powers. So of all our other great channels of intercourse and commerce.

When dissolution shall come—if come it must—instead of the happy, social, political, and commercial intercourse we now enjoy—when the citizen at home is everywhere a citizen—we will be met at every turn by treaties, tariffs, searches, outposts, blockades, and laws of non-intercourse; instead of our temples of worship, education, or amusement, we will have frowning fortresses, moated bastiles, and garrisons, for standing armies; in place of the busy hum of happy peace, we will be startled and shocked by the roar of cannon, the rattle of musketry, the dashing tramp of the war steed, the clash and clang of arms, the shock and conflict of men, the screams of the wounded, and the moans of the dying. Where our valleys now yield the reward of quiet industry, and our hill-sides are odorous with the blooming vine and olive, those valleys will be afloat in crimson gore—those hill sides whitened with the bleaching bones of kindred and companions! May he who intentionally takes the first step toward this horrid consummation, suffer through life all the tortures of despair and wretchedness! May sight forsake his eyes, and hearing his ears! May leprous scales cling to his wretched carcass, while disease, want, hunger, thirst, and cold, feed upon his vitals! And in his last hour, may he have no kindly hand to smooth his pillow—no kindred smile to light his exit to the grave! Nay, sir, may he have no pillow on which to die—no grave in which to repose! And

in the dread tribunal of eternity, may he barely meet the mediatorial interposition of Jesus at the throne of God! For such a wretch the Saviour scarcely died!

This, sir, is my curse for the would-be destroyer of this Union and Republic. If he be in this chamber—which I cannot believe—the curse is for him; and if I could add to my tongue the sting of the scorpion—the fire that is never quenched—the gall that is persistent through eternity—I would make that curse more poignant, more burning, and more bitter.

If it were possible so to bury a magazine as to blast this continent asunder, it would hardly produce the horrors of a dissolution of this Union, and the consequent downfall of this Republic. Those horrors would not be bounded by this continent—they would span and bound the world. This is a land too goodly not to have excited the envy and avarice of tyrant aspirants in every quarter of the globe. The history of the conflicts between the Normans and the Saxons—the Tudors and Plantagenets—of York and Lancaster—yea, of all the factions that have ever contended in England and Europe—would constitute but a tinted page, compared with the blood-red history of our downfall, and its consequences. If come they must—which may God avert! if run their course they must—when they are ended, when "it is finished," there will be scarcely blood enough left in the veins of surviving man, with which to post up the crimson record. If

"Freedom shrieked when Kosciusko fell;"

when this Republic shall fall, Freedom

"Sighing from her seat, through all her works,
Will give signs of wo that all is lost."

Ours will be a bitter cup to all mankind who aspire to freedom; and may Heaven grant to "let that cup pass!" Contemplate the noble Kossuth in distress, wending his way through secret and lonesome paths, seeking egress from a land of oppression, that he may go away to this, the land of his promise and his refuge. The startling cry breaks upon his ear—THE AMERICAN REPUBLIC HAS FALLEN! With an aimless gaze of wan despair, he falls—his great heart bursting, as he sighs a last farewell to liberty and hope!

Sir, if fall we must, and you should be so wretched as to survive that fall, when, in after and remote years, prompted by a patriotism no longer useful, you shall make a pilgrimage to this shrine of our then departed empire, you will find—

"The wild briar tangled where rose-trees had been,
The city in ruins, and lonesome the green."

As you then stand in this chamber, meditating on the fading past, a death-watch silence—mournfully expressive of departed greatness—will be broken only by the falling drops of accumulated damps, or the sound of the nail falling from its neglected and decaying beams, to tell more plainly of the ruin and the change. The beautiful though melancholy lines of Moore will be then appropriate to your meditations:

"The harp that once through Tara's halls
The soul of music shed,
Now hangs as mute on Tara's walls
As if that soul were fled.

No more to chiefs and ladies bright
The harp of Tara swells;
The chord that breaks alone at night
Its tale of ruin tells.

Thus Freedom now so seldom wakes,
The only throb she gives
Is when some heart indignant breaks,
To show that still she lives!"

But it must not—it cannot be. There are too many glorious memories—too much of bright promise and of hope associated with this happy land—to leave any one indifferent to its fate, much less with a desire for its ruin. Those who established our Union and Republic, established in them a monument of fame and glory to themselves and their posterity. They left it to our care, with the charge to guard it from the ruthless hand of the spoiler, and to adorn it with the garlands and flowers of veneration, fidelity, and affection. They lighted the fires on the altar of freedom, and left them brightly burning, with the injunction to us to keep the flame perpetual. If now we betray our trust, and make ours the hand to tear down that monument, and dash out that flame, if the heaviest vengeance of Heaven be not visited upon us, it will be that the Divine Ruler of nations will manifest his omnipotence more through his attribute of mercy than of justice.

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SPEECH

OF

THOS. J. RUSK, OF TEXAS,

ON

MR. CLAY'S RESOLUTIONS.

DELIVERED IN THE SENATE OF THE UNITED STATES, FEBRUARY 27 AND 28, 1850.

The Senate having resumed the consideration of the Compromise Resolutions offered by Mr. CLAY—Mr. RUSK said:

Mr. PRESIDENT: I have stood ready ever since I have held a seat upon this floor to vindicate the right of my State to the territory to the Rio Grande, and as far as the 42° of north latitude, which is the subject-matter of the third and fourth resolutions offered by the honorable Senator from Kentucky, (Mr. CLAY.) No occasion has presented itself before now in which this matter could be investigated, and final action of an authoritative character take place. I was gratified, sir, that the distinguished Senator from Kentucky, who I regret to perceive is not in his place, should have brought forward these resolutions. There are, among these resolutions, several which cannot have my support, without important amendments; but the distinguished position which their author occupies, and the condition in which the country is placed at the present moment by sectional disputes, rendered his interference peculiarly fortunate. Allow, me, sir, here to remark, that the condition of things is much more serious than seems to be generally supposed, and I regret to observe that, notwithstanding the excitement on the subject, there exists a sort of apathy in regard to the consequences likely to ensue. I was glad, therefore, that the honorable Senator from Kentucky lent the weight of his name to anything which might furnish a ground of discussion, and enable us to settle the difficulties that now agitate this country, and are rapidly bringing us to the verge of sectional strife. It is time, sir, that this should be done—that we should meet this question. It has been long enough a hobby upon which political partisans, destitute of any other merit, may ride into power. It is due to the Union itself—it is due to that fraternal feeling which should exist all over this broad country—it is due to the East, to the West, to the North, and to the South—that we should march up like men, meet this question fully, and at once settle it, in accordance with the principles of the Constitution and in the spirit in which that sacred instrument was framed.

TOWERS, PRINT.

I shall proceed at present, sir, to the consideration of the third resolution of the honorable Senator from Kentucky, reserving what I may have to say upon other subjects until I shall have established the title—which I conceive to be indisputable—of Texas to all the territory as far as the Rio Grande. The honorable Senator's resolution proposes to curtail that territory; and so much has been said upon this point, that it is, perhaps, best for me to go back and trace it from the beginning.

I find, sir, that in discussing the title, (which, in fact, has its origin in the revolution of Texas,) here and elsewhere, the ancient limits of Texas, according to the geographical distinctions by which that country has been known, are constantly referred to. If we go back, we shall find that Florida, including Texas, according to a map published by John Senex, in London, in 1710, was bounded on the east by the Atlantic ocean and South Carolina, on the south by the Gulf of Mexico, on the west by the Rio Grande and New Mexico, and on the north by the 38th degree of north latitude, separating it from Canada or New France. According to an authority published in 1721, Louisiana was bounded on the east by Florida and South Carolina, by the Gulf of Mexico on the south, by the Rio Grande and New Mexico on the west, and by Canada or New France on the north. These, sir, were the original boundaries. But here let me draw the attention of the Senate for a moment to an extract (which I will ask the Clerk to read) from an eloquent speech, on this very subject, delivered by the honorable Senator from Kentucky in 1820:

The Secretary read the extract as follows:

"The second resolution comprehended three propositions; the first of which was, that the equivalent granted by Spain to the United States for the province of Texas was inadequate. To determine this, it was necessary to estimate the value of what we gave and of what we received. This involved an inquiry into our claim to Texas. It was not his purpose to enter at large into this subject. He presumed the spectacle would not be presented of questioning, in this branch of the government, our title to Texas, which had been constantly maintained by the Executive for more than fifteen years past, under three several Administrations. He was, at the same time, ready and prepared to make out our title, if any one in the House were fearless enough to controvert it. He would, for the present, briefly state that the man who is most familiar with the transactions of this Government, who largely participated in the formation of our Constitution and all that has been done under it, who, besides the eminent services that he has rendered his country, principally contributed to the acquisition of Louisiana, who must be supposed, from his various opportunities, best to know its limits, declared, fifteen years ago, that our title to the Rio Del Norte was as well founded as it was to the island of New Orleans. (Here Mr. C. read an extract from a memoir presented, in 1805, by Mr. Monroe and Mr. Pinckney, to Mr. Cevallos, proving that the boundary of Louisiana extended eastward to the Perdido, and westward to the Rio Del Norte, in which they say: 'The facts and principles which justify this conclusion are so satisfactory to their government as to convince it that the United States have not a better right to the island of New Orleans, under the cession referred to, than they have to the whole district of territory thus described.') The title to the Perdido on the one side, and to the Rio del Norte on the other, rested on the same principle—the priority of discovery and of occupation by France. Spain had first discovered and made an establishment at Pensacola; France at Dauphine island, in the bay of Mobile. The intermediate space was unoccupied; and the principle observed among European nations having contiguous settlements, being that the unoccupied space between them should be equally divided, was applied to it, and the Perdido thus became the common boundary. So, west of the Mississippi, La Salle, acting under France, in 1682 or 1683, first discovered that river. In 1685 he made an establishment on the bay of St. Bernard, west of the Colorado, emptying into it. The nearest Spanish settlement was Panuco, and the Rio del Norte, about the midway line, became the common boundary.

"All the accounts concurred in representing Texas to be extremely valuable. Its superficial extent was three or four times greater than that of Florida. The climate was delicious,

the soil fertile, the margins of the rivers abounding in live oak, and the country admitting of easy settlement. It possessed, moreover, if he were not misinformed, one of the finest ports on the Gulf of Mexico. The productions of which it was capable were suited to our wants. The unfortunate captive of St Helena wished for ships, commerce, and colonies. We have them all, if we do not wantonly throw them away. The colonies of other countries are separated from them by vast seas, requiring great expense to protect them, and are held subject to constant risk of their being torn from their grasp. Our colonies, on the contrary, are united to and form a part of our continent; and the same Mississippi, from whose rich deposite the best of them (Louisiana) has been formed, will transport on her bosom the brave, the patriotic men from her tributary streams to defend and preserve the next most valuable the province of Texas."

The title of Texas, Mr. President, is derived, as I have already said, not from geographical distinctions, but from the revolution. No one will dispute that a war between two nations unsettles all boundaries. In such cases, they are to be established either by the sword or by treaty.

It is well known that, in the year 1835, war broke out between Texas and Mexico. In that war, before the final declaration of independence, a battle took place between the Texan and Mexican armies at San Antonio, in which the Texan troops were successful. General Cos, the commander of the Mexicans, entered into a capitulation and abandoned the country with his forces; and thus early did Texas make her mark and assert her claim to the territory as far as the Rio del Norte; and, in so doing, I think she acted wisely in taking a hint from the speech of the honorable Senator from Kentucky.

I now send to the Secretary's desk the capitulation which took place on the occasion referred to, which he will be pleased to read.

The Secretary read the capitulation, as follows:

Capitulation entered into by General Martin Perfecto de Cos, of the permanent troops, and General Edward Burleson, of the colonial troops of Texas.

"Being desirous of preventing the further effusion of blood and the ravages of civil war, we have agreed on the following stipulations:

"1. That General Cos and his officers retire with their arms and private property into the interior of the Republic, under parole of honor; that they will not in any way oppose the re-establishment of the federal Constitution of 1824.

"2. That the one hundred infantry lately arrived, with the convicts, the remnant of the battalion of Morelos, and the cavalry, retire with the General, taking their arms and ten rounds of cartridges for their muskets.

"3. That the General take the convicts brought in by Colonel Ugartachea, beyond the Rio Grande.

"4. That it is discretionary with the troops to follow their General, remain, or go to such point as they may deem proper; but in case they should all or any of them separate, they are to have their arms, &c.

"5. That all the public property, money, arms, and munitions of war, be inventoried and delivered to General Burleson.

"6. That all private property be restored to its proper owners.

"7. That three officers of each army be appointed to make out the inventory, and see that the terms of the capitulation be carried into effect.

"8. That three officers on the part of General Cos remain for the purpose of delivering over the said property, stores, &c.

"9. That General Cos, with his force, for the present, occupy the Alamo; and General Burleson, with his force, to occupy the town of Bexar; and that the soldiers of neither party pass to the other armed.

"10. General Cos shall, within six days from the date hereof, remove his force from the garrison he now occupies.

"11. In addition to the arms before mentioned, General Cos shall be permitted to take with his force a four-pounder and ten rounds of powder and ball.

"12. The officers appointed to make the inventory and delivery of the stores, &c., shall enter upon the duties to which they have been appointed forthwith.

"13. The citizens shall be protected in their persons and property."

"14. General Burleson will furnish General Cos with such provisions as can be obtained, necessary for his troops to the Rio Grande, at the ordinary price of the country.

"15. The sick and wounded of General Cos's army, together with a surgeon and attendants, are permitted to remain.

"16. No person, either citizen or soldier, to be molested on account of his political opinions hitherto expressed.

"17. That duplicates of this capitulation be made out in Castilian and English, and signed by the commissioners appointed, and ratified by the commanders of both armies.

"18. The prisoners of both armies up to this day shall be put at liberty.

"The commissioners, Jose Juan Sanchez, adjutant inspector, Don Ramon Musquiz, and Lieutenant Francisco Rada, and interpreter Don Miguel Arciniega, appointed by the commandant and inspector General Martin Perfecto de Cos, in connection with Colonel F. W. Johnson, Major R. C. Morris, and Captain J. G. Swisher, and interpreter John Cameron, appointed on the part of General Edward Burleson, after a long and serious discussion, adopted the eighteen preceding articles, reserving their ratification by the Generals of both armies.

"In virtue of which, we have signed this instrument in the city of Bexar, on the 11th of December, 1835.

JOSE JUAN SANCHEZ,
RAMON MUSQUIZ,
J. FRANCISCO DE RADA,
MIGUEL ARCINIEGA, interpreter.
F. W. JOHNSON,
ROBERT C. MORRIS,
JAMES G. SWISHER,
JOHN CAMERON, interpreter.

"I consent and will observe the above articles, MARTIN PERFECTO DE COS.

"Ratified and approved: EDWARD BURLESON,
Commander-in-chief of the volunteer army.

"A true copy: EDWARD BURLESON, Commander-in-chief."

This capitulation, Mr. President, is the first link in the chain of title which Texas sets up to the territory as far as the Rio Grande. Immediately after this capitulation, in the early part of 1836, the declaration of independence was made by Texas, and Santa Anna mustered his whole force for the purpose of exterminating us, and making the Sabine the boundary line between Mexico and the United States. On the 21st of April of that year the two armies encountered each other; the result is known—Santa Anna and some eight hundred of his troops, after the battle, remained our prisoners. He was, as a matter of course, anxious to obtain his liberty, but there were various other things which he was also anxious to obtain. He had shortly before overthrown the Constitution of 1824 of the federal Government of Mexico, and established a central power, which had vested in him absolute authority. The Government, thus established, was highly objectionable to the people of Mexico, and depended for its existence solely on the military power of the country. Santa Anna had brought that power to Texas. He was a prisoner, and the army, as well as the Government which depended upon it, was at our mercy.

Under these circumstances, the first thing which he did was to make a proposition to acknowledge the independence of Texas, and establish the Rio Grande as the boundary between the two countries. This was declined; and he re-urged it. The Mexican army commenced falling back in great confusion, whilst ours advanced. Santa Anna was left as a prisoner in the possession of the Government of Texas; and after repeated solicitations on his part, the Government, in May afterwards, entered into a treaty with him, in which the independence of Texas was aknowledged, and the Rio Grande recognised as the boundary. I hold in my hand a copy of that treaty, which I will read.

"Articles of agreement and solemn compact, made and adopted by David G. Burnet, President of the republic of Texas, and the undersigned, members of the cabinet thereof, on the one part, and Don Antonio Lopez de Santa Anna, President of the republic of Mexico, and Don Vicente Filisola, General of Divisions, Don Jose Urea, Don Joaquin Ramires y Sesma, and Don Antonio Gaona, Generals of Brigades of the armies of Mexico:

"Whereas the President, Santa Anna, with divers officers of his late army, is a prisoner of war in charge of the army of Texas, and is desirous of terminating the contest now existing between the government of Texas, and that of Mexico, in which desire the generals above named do fully concur; and

"Whereas the President of the republic of Texas, and the cabinet, are also willing to stay the further effusion of blood, and to see the two neighboring republics placed in relations of friendship, on terms of reciprocal advantage:

"Therefore, it is agreed by the President Santa Anna, and the Generals Don Vicente Filisola, Don Jose Urea, Don Joaquin Ramires y Sesma, and Don Antonio Gaona—

"1st. That the armies of Mexico shall, with all practicable expedition, evacuate the Territory of Texas, and retire to Monterey, beyond the Rio Grande.

"2d. That the armies, in their retreat, shall abstain from all pillage and devastation, and shall not molest any of the citizens of Texas, and shall not carry with them any cattle or other stock, more than may be absolutely necessary for their subsistence, for which a just price *shall* be paid. That all private property that may have been captured by either detachment of the army shall be deposited at the first convenient point of their march, and left under a sufficient guard, until the proper authorities of Texas shall take possession thereof.

"3d. That the army of Texas are to march westwardly, and to occupy such posts as the commanding general may think proper, on the east side of the Rio Grande, or Rio Bravo del Norte.

"4th. That the President Santa Anna, in his official character as chief of the Mexican nation, and the Generals Don Vicente Filisola, Don Jose Urea, Don Joaquin Ramires y Sesma, and Don Antonio Gaona, as chiefs of armies, do solemnly acknowledge, sanction, and ratify the full, entire, and perfect independence of the republic of Texas, with such boundaries as are hereafter set forth and agreed upon for the same. And they do solemnly and respectively pledge themselves, with all their personal and official attributes, to procure without delay the final and complete ratification and confirmation of this agreement, and all the parts thereof, by the proper and legitimate government of Mexico, by the incorporation of the same into a solemn and perpetual treaty of amity and commerce, to be negotiated with that government, at the city of Mexico, by ministers plenipotentiary, to be deputed by the government of Texas for this high purpose.

"5th. That the following be, and the same are hereby, established and made the lines of demarcation between the two republics of Mexico and of Texas, to wit: The line shall commence at the estuary or mouth of the Rio Grande, on the western bank thereof, and shall pursue the same bank up the said river, to the point where the river assumes the name of the Rio Bravo del Norte, from which point it shall proceed on the said western bank to the head waters or source of said river; it being understood that the terms Rio Grande and Rio Bravo del Norte apply to and designate one and the same stream. From the source of said river, the principal head branch being taken to ascertain that source, a due north line shall be run, until it shall intersect the boundary line established and described in the treaty negotiated by and between the government of Spain and the government of the United States of the North; which line was subsequently transferred to and adopted in the treaty of limits made between the government of Mexico and that of the United States; and from this point of intersection the line shall be the same as was made and established in and by the several treaties above mentioned, to continue to the mouth or outlet of the Sabine river, and from thence to the Gulf of Mexico.

"6th. That all prisoners taken by the forces of Mexico be forthwith released, and be furnished with free passports to return to their homes; their clothing and small arms to be restored to them.

"7th. That all the fortresses of Texas be forthwith restored without dilapidation, and with all the artillery and munitions of war belonging to them respectively.

"8th. The President and cabinet of the republic of Texas, exercising the high powers confided to them by the people of Texas, do, for and in consideration of the foregoing stipulations, solemnly engage to refrain from taking the life of the President Santa Anna, and of the several officers of his late army, whom the events of war have made prisoners in their hands, and to liberate the President Santa Anna, with his private Secretary, and cause him to be conveyed, in one of the national vessels of Texas, to Vera Cruz, in order that he may more promptly and effectually obtain the ratification of this compact, and the negotiation of the definitive treaty herein contemplated by the government of Mexico with the government of Texas.

"9th. The release of the President Santa Anna shall be made immediately on receiving the signatures of the Generals Don Vicente Filisola, Don Jose Urea, Don Joaquin Ramires y Sesma, and Don Antonio Gaona, to this agreement, and his conveyance to Vera Cruz as soon afterwards as may be convenient.

"10th. The President Santa Anna, and the Generals Don Vicente Filisola, Don Jose Urea, Don Joaquin Ramires y Sesma, and Don Antonio Gaona, do, by this act of subscribing this instrument, severally and solemnly pledge themselves, on their inviolable parole of honor, that in the event the Mexican government shall refuse or omit to execute, ratify, confirm, and perfect this agreement, they will not, on any occasion whatever, take up arms against the people of Texas, or any portion of them, but will consider themselves bound, by every sacred obligation, to abstain from all hostility towards Texas or its citizens.

"11th. That the other Mexican officers, prisoners with the government of Texas, shall remain in custody, as hostages, for the faithful performance of this agreement, and shall be treated with humanity, and the respect due their rank and condition, until the final disposition of the Mexican government be ascertained, and a treaty, to be predicated upon the above stipulations, shall be made or rejected by that government. In the event of a refusal to enter into and ratify such treaty, on the part of the Mexican government, the government of Texas reserves to itself the right to dispose of them as they may think proper and equitable, relative to the conduct of the Mexican forces towards the volunteers and soldiers of Texas, who have heretofore fallen into their hands.

"12th. The high contracting parties mutually agree to refer the treaty intended to be executed and solemnized by the two governments of Texas and Mexico, on the basis established in this compact, to the government of the United States of the North, and to solicit the guaranty of that government for the fulfilment, by the contracting parties respectively, of their several engagements; the said parties pledging themselves, in case of any disagreement or defalcation, to submit all matters in controversy to the final decision and adjustment of that government. For this purpose, the contracting parties shall, as soon as practicable after the ratification of said treaty, depute one or more commissioners to the court of Washington, invested with plenary powers to perfect the object of this stipulation.

"13th. Any act of hostility on the part of the retreating Mexican troops, or any depredation upon public or private property committed by those troops, or any impediment presented to the occupation of any part of the Territory of Texas, by the forces thereof, on the part of the Mexican troops, shall be considered a violation of this agreement."

Santa Anna was not alone in the execution of this treaty. General Filisola was the second in command, and was some forty or fifty miles off with a large body of the Mexican army at the time that Santa Anna was made a prisoner. The treaty was begun as between General Santa Anna and the Mexican generals on the one part, and the Government of Texas on the other. It goes on in the names of General Santa Anna and half a dozen other generals, among them General Filisola, who had succeeded to the entire command of the Mexican army then in Texas. This treaty was immediately communicated to General Filisola, and by him sanctioned; and under its provisions about five or six thousand Mexican troops, with their munitions of war, were saved. Allow me, sir, in proof of this, and to show that the Mexican Government also sanctioned this treaty, to read an extract from a communication:

From the Secretary of War of Mexico, dated May 15, 1836, *and addressed to General Filisola, then second in command.*

"Secretary's Office of War and Marine,
"Central Section, 1st Bureau, May 15, 1836.

"Excellent Sir: With the most profound sorrow, his excellency the President *pro tem.* has learned, by the official letter of your excellency of the 25th of last month, the defeat suffered on the 21st of the same month by the division commanded in person by the President, general-in-chief of the army, (Santa Anna,) and the very lamentable misfortune that his excellency should be made prisoner with other chiefs and officers.

"His excellency the President *pro tem.* is in some measure consoled that a general so experienced as your excellency should be the one who obtains the command, the which he expressly confirms.

"The first desire that his excellency has is, that you address the enemy's General, exacting from him, *by decorous means, the liberty* of the President, general-in-chief—or at least, during the time this point can be regulated, the consideration due his high dignity, and to a person so distinguished in the annals of American history, *and for whose preservation* the entire nation is interested by gratitude, and because he is chief of it.

"His excellency the President *pro tem.* counts upon your excellency's *directing all his efforts to saving the remainder of the army*, by concentrating it, so as to render it more respectable, placing it in a convenient place for receiving provisions, for which the most efficacious measures are adopted. The preservation of Bexar is of absolute necessity, in order that the Government, according to circumstances, may act as they see fit.

"The fate of all the prisoners is very interesting to the nation; and it is recommended to your excellency to endeavor to alleviate it, giving authority from this moment to propose exchanges, and to preserve for this purpose, and because humanity exacts it, the lives of the prisoners made and that may be made from the enemy. Your excellency knows the circumstances which may result from an imprudence committed in this affair; but the Government fears nothing as regards this, because it knows how great is the skill and zeal of your excellency for the best service of the country."

General Filisola obeyed the directions here given him by the Secretary of War; he saved the life of the President, some eight hundred prisoners, and, what was of still greater consequence to the Mexican Government, he saved the army upon which its very existence depended. All this was done by his sanctioning the treaty. Here is what he says on the subject at various times. In his defence, dated 10th June, 1836, amongst other things, he said:

"His excellency, [Santa Anna,] in my humble opinion, in the treaties he agreed upon, and that I had the honor to send your excellency, acted with entire liberty, and had nothing more in view than the interest of his country."

In a previous despatch to his Government, he says:

"If the enemy, under these critical circumstances, should have met us on the only road that was left, nothing would remain but to die or surrender at discretion. The army is without clothing, the arms ruined, ammunition of every kind in a very bad condition, horses and and mules badly used in the extreme. We have neither physician nor apothecary; we are threatened with the epidemic of the season, added to the innumerable sufferings which the army has undergone; and should this misfortune take place, the men will perish without the least assistance, in the midst of discouragement, and abandoned without even the consolation of spiritual assistance, *for we have not a single chaplain to say Mass for us.* Cavalry sick; baggage, mules, every thing that accompanied the army, was a confused mass, without any distinction, and without being able to move from the place where they were caught."

In his dispatch of May 31, 1836, alluding to this treaty, General Filisola says:

"I do not mention other reasons, perhaps more convincing; and, in fine, I think I have saved the whole army from a disaster, and the national decorum from a positive disgrace."

This, then, sir, was the condition of General Filisola; this was the condition of the Mexican army, and a part of the terms of the treaty was the salvation of that army; the life of the President was to be saved, and the prisoners we had in our camp were to be saved. These were the terms; and the conditions, being made known to General Filisola, were sanctioned by him, the Mexican Government directing him, and giving him full power and authority for these objects, and directing his attention to the accomplishment of them. He had no other means to accomplish them but to sanction this treaty. He did so, and transmitted it to his Government. That Government was mute until they had received all the benefits of the treaty. They had saved their army, they had saved the life of their President, and the prisoners who were in our camp. They had in fact received all the benefits intended to be secured to them; and never, until their army is safe upon the western bank of the Rio Grande, do we hear

a word about repudiation. And yet, under all these circumstances, we are flippantly told it was a treaty made with prisoners, and therefore not binding.

Now, sir, after receiving the benefit of the treaty, could Mexico, without national disgrace, repudiate that treaty? Or can the Government of the United States avail itself of this quibble, and take half the territory of the State of Texas, under the sanction of an act of the Mexican Government which was disgraceful in the eyes of the civilized world? If this were all—if we stopped here, can this Government, with due respect to its reputation, avail itself of a mere quibble—a quibble which disgraced Mexico? It seems to me, clearly not. Texas, in the year 1836, passed a law, defining her boundary according to this treaty, every article of which we had fully complied with, extending her limits to the Rio Grande. It is not worth while to take up the time of the Senate by reading that law.

Mexico herself did not entirely disregard this treaty; for in the controversy which they still kept up with us, they always regarded the Rio Grande as the dividing line, and the question between us never was debated as to the line of New Mexico or the Nueces; but it was "the whole or none—the Sabine or the Rio Grande."

General Woll, who was in command of that division, on the 20th June, 1844, issued a proclamation, in which are to be found these words:

20th JUNE, 1844.

"3. Every individual who shall be found at the distance of one league from the left bank of the Rio Bravo will be regarded as a favorer and accomplice of the usurpers of that part of the national territory, and as a traitor to his country, and, after a summary military trial, shall be punished as such.

ADRIAN WOLL,
General of Brigade."

Shortly after, the resolutions under which we were annexed, were presented to the State of Texas for her consideration. A treaty was entered into by the then President of the Republic of Texas, Mr. Jones, and the Mexican Government. By the terms of that treaty the independence of Texas was acknowledged upon condition that she would annex herself to no other country, but leaving the question of boundary to be determined by an umpire.

The legislature of Texas unanimously, without a single dissenting voice, rejected that treaty.

Then, sir, next in the history of this matter, comes our annexation; and here, Mr. President, allow me to read from the annexation resolutions:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That Congress doth consent that the territory properly included within, and rightfully belonging to, the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said Republic, by deputies in convention assembled, with the consent of the existing government, in order that the same may be admitted as one of the States of this Union.

"2. *And be it further resolved,* That the foregoing consent of Congress is given upon the following conditions, and with the following guaranties, to wit: First, said State to be formed subject to the adjustment by this government of all questions of boundary that may arise with other governments; and the constitution thereof, with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January, one thousand eight hundred and forty-six. Second, said State, when admitted into the Union, after ceding to the United States all public edifices, fortifications, barracks, ports and harbors,

navy and navy yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defence, belonging to said Republic of Texas, shall retain all the public funds, debts, taxes, and dues of every kind, which may belong to, or be due and owing said Republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas; and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct; but in no event are said debts and liabilities to become a charge upon the Government of the United States. Third, new States of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution. And such States as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may desire. And in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited."

Under these resolutions Texas agreed to submit all questions of boundary between her and other governments, which evidently meant Mexico, to the Government of the United States. Now, does not everybody know that this matter could be settled in no other way than by the President and two-thirds of the Senate, the teaty-making power? Here, sir, is the compact; it is a plain one, offered to Texas on the one side by the United States and accepted by her. It will not be contended that any other department of the government, except the treaty-making power, has any jurisdiction of the question of boundary. This is a large power, and may, in its exercise, involve the question of existence itself. Has it ever been contended that such authority exists either in the Executive, in the Supreme Court, or in any portion of the government, except the treaty-making power? Texas was not bargaining for any more difficulties than she had already on her hands. She was conceding to this government the power of determining her boundary between her and Mexico; she was not trying to find another claimant to her soil. She was, by her own consent, willing to place them in the condition of judges. But, sir, the honorable Senator from Kentucky said, if I remember right, that if the United States was trustee for Texas, before she could claim this territory she must pay her portion of the expenses of the war. Now, sir, this would be introducing into our system of government an entirely new principle. You tie Texas hand and foot. She cannot defend her own territory without your act; and yet, if a war grows out of defending that territory, she must pay a part of the expenses. Well, sir, be it so. She has paid a portion of those expenses; she has surrendered to you her nationality; she has given you jurisdiction to the Rio Grande; and, more than that, sir, in the war which followed, and for the expenses of which she is to be held responsible, she furnished you with more men to fight it than any other State of the Union, save and except her sister State, Louisiana. And is this to be counted for nothing? Why, sir, take up the principle laid down by the honorable Senator from Kentucky: if it is to be applied to Texas, it ought to be applied to all the other territory. You may possibly be able to settle the whole controversy on that principle, in proportion to the amount which each State is benefited by the war. In that proportion will each State have to bear the expenses; and what will be the result? We have acquired much valuable territory, of which the non-slave-

holding States have appropriated to themselves nearly the whole. Carry out this principle, and if they have to pay as much as is charged on Texas, it will amount to a round sum. This government will make money enough to go on for years without a resort to taxation of any sort. But there is one thing certain: this Government agreed to become a judge in the controversy between Texas and Mexico, and we voluntarily submitted to it. The honorable Senator derives the power of this Government to settle the boundary in this way: He says that authority was vested by Texas in the Government of the United States to settle this controversy with Mexico; that, having done so, this Government succeeds to all the claim which Mexico had; that therefore the United States Government has a right to settle the controversy for itself. I ask is this so? Is there any fair construction of the agreement between Texas and the United States which can give this Government the power to present in its own behalf the adverse claim of Mexico? In fact, can the United States creditably, and with a due regard to its reputation for honor and justice, do so? I object to the connexion of the Texas boundary with the question of slavery, whether on the part of the North or the South. I appeal to something higher than mere considerations of party or sections in this matter. I am surrounded by honorable men, selected from their respective States because of their high reputation, acting under the solemnity of an oath; and I ask nothing from the feelings or prejudices of any particular Senator, but appeal solely to the ideas of strict justice implanted by the Creator in the mind of every man, to take this question before that tribunal, and settle it without reference to the question of extension or non-extension of slavery. And I think I have the right to make this appeal, so far as Texas is concerned, and I feel that I have the right to see it respected, for the reputation of this Government for justice, not to say for magnanimity. No such power was granted to the United States by Texas, in relation to this boundary, as is claimed by the Senator.

The honorable Senator from Kentucky thought proper to say that the boundary was unfixed and unsettled, and that it was for us now to settle it. Now I take issue with him here, and say that it is fixed and settled, and that this Government cannot unsettle it. Shorly after the annexation was consummated, as all well remember, Mr. Slidell was sent to Mexico by the President to adjust this boundary difficulty between Texas and Mexico; and this, sir, was the first step taken for the purpose of adjusting these matters. Here allow me to read an extract from the instructions of the President, under which he went out:

Mr. Buchanan's instructions to Mr. Slidell, dated November 10, 1845.

"This question of boundary may, therefore, be adjusted in such a manner between the two republics as to cast the burden of the debt due to American claimants upon their own government, whilst it will do no injury to Mexico.

"In order to arrive at a just conclusion upon this subject, it is necessary briefly to state what, at present, are the territorial rights of the parties.

"The Congress of Texas, by the act of December 19, 1836, have declared the Rio del Norte, from its mouth to its source, to be a boundary of that republic.

"In regard to the right of Texas to the boundary of the Del Norte from its mouth to the Paso, there cannot, it is apprehended, be any very serious doubt. It would be easy to establish, by the authority of our most eminent statesmen—at a time, too, when the question of the

boundary of the province of Louisiana was better understood than it is at present—that, to this extent, at least, the Del Norte was its western limit. Messrs. Monroe and Pinckney, in their communications of January 28, 1805, to Don Pedro Cevallos, then the Spanish Minister of Foreign Relations, assert, in the strongest terms, that the boundaries of that province 'are the river Perdido to the east, and the Rio Bravo to the west.' They say, 'the facts and principles which justify this conclusion are so satisfactory to our government, as to convince it that the United States have not a better right to the island of New Orleans, under the cession referred to, (that of Louisiana,) than they have to the whole district of territory which is above described.' Mr. Jefferson was at that time President, and Mr. Madison Secretary of State; and you well know how to appreciate their authority. In the subsequent negotiation with Mr. Cevallos, Messrs. Monroe and Pinckney conclusively vindicated the right of the United States as far west as the Del Norte. Down to the very conclusion of the Florida treaty, the United States asserted their right to this extent, not by words only, but by deeds. In 1818 this government, having learned that a number of adventurers—chiefly Frenchmen—had landed at Galveston, with the avowed purpose of forming a settlement in that vicinity, despatched George Graham, esq., with instructions to warn them to desist. The following is an extract from these instructions, dated June 2, 1818: 'The President wishes you to proceed with all convenient speed to that place, (Galveston,) unless, as it is not improbable, you should, in the progress of the journey, learn that they have abandoned or been driven from it. Should they have removed to Matagorda, or any other place north of the Rio Bravo, and within the territory claimed by the United States, you will repair thither, without, however, exposing yourself to be captured by any Spanish military force. When arrived, you will, in a suitable manner, make known to the chief, or leader of the expedition, your authority from the government of the United States, and express the surprise with which the President has seen possession thus taken, without authority from the United States, of a place within their territorial limits, and upon which no lawful settlement can be made without their sanction. You will call upon him explicitly to avow under what national authority they profess to act, and take care that due warning be given to the whole body, that the place is within the United States, who will suffer no permanent settlement to be made there under any authority other than their own.

"It cannot be denied, however, that the Florida treaty of February 22, 1819, ceded to Spain all that part of ancient Louisiana within the present limits of Texas; and the more important inquiry now is, what is the extent of the territorial rights which Texas has acquired by the sword in a righteous resistance to Mexico? In your negotiations with Mexico, the independence of Texas must be considered a settled fact, and is not to be called in question.

"Texas achieved her independence on the plains of San Jacinto, in April, 1836, by one of the most decisive and memorable victories recorded in history. She then convinced the world, by her courage and her conduct, that she deserved to rank as an independent nation. To use the language of Mr. Webster, Secretary of State, in a despatch to our minister at Mexico, dated 8th July, 1842: 'From the time of the battle of San Jacinto, in April, 1836, to the present moment, Texas had exhibited the same external signs of national independence as Mexico herself, and with quite as much stability of government. Practically free and independent; acknowledged as a political sovereignty by the principal powers of the world; no hostile foot finding rest within her territory for six or seven years, and Mexico herself refraining, for all that period, from any further attempt to re-establish her own authority over that territory,' &c., &c.

"Finally, on the 29th March, 1845, Mexico consented, in the most solemn form, through the intervention of the British and French Governments, to acknowledge the independence of Texas, provided she would stipulate not to annex herself, or become subject, to any country whatever.

"It may, however, be contended, on the part of Mexico, that the Nueces, and not the Rio del Norte, is the true western boundary of Texas. I need not furnish you arguments to controvert this position. You have been perfectly familiar with the subject from the beginning and know that the jurisdiction of Texas has been extended beyond that river, and that representatives from the country between it and the Del Norte have participated in the deliberations of both her Congress and her convention. Besides, this portion of the territory was embraced within the limits of ancient Louisiana."

These, Mr. President, were the instructions under which Mr. Slidell went out to Mexico settle the questions between Texas and Mexico. It is known that his mission failed. War upon this subject broke out between Mexico and the United States; and after it had been prosecuted for some time, another gentleman (Mr. Trist) was sent out for the purpose of negotiating this matter. His instructions were not only similar to those given to Mr. Slidell, but were accompanied by a

map, (to which I shall have occasion hereafter to refer,) to act as a guide in any treaty he might make with Mexico. Pending the negotiation of Mr. Trist, it seems that he had somehow agreed to treat, leaving this Texas question unsettled until further instructions from his Government. As soon as this information reached here, this is what was said to him by the Secretary of State:

Mr. Buchanan to Mr. Trist.

"DEPARTMENT OF STATE, WASHINGTON, *October* 6, 1847.

"SIR: On the 2d instant, there was received at this department, from Vera Cruz, a printed document in Spanish, consisting of eight quarto pages, and entitled 'Contestace ones habedas entre el Supremo Gobierno Mexicano, el general-en-gefe del ejercito Americano, y el comisionado de los Estados Unidos.' This purports to give a history, in detail, of the origin, progress, and unsuccessful termination of your negotiations with the Mexican commissioners. The counter-projet of the Mexican Government is, indeed, under all the circumstances, a most extraordinary document. Its extravagance proves conclusively that they were insincere in appointing commissioners to treat for peace, and that the armistice and subsequent negotiations were intended merely to gain time. They must have known that the Government of the United States never would surrender either the territory between the Nueces and the Rio Grande, or New Mexico, or any portion of Upper California—never would indemnify Mexican citizens for injuries they may have sustained by our troops in the prosecution of the present just and necessary war—and never could, without dishonor, suffer the Mexican Government to levy new duties upon goods imported into ports now in our actual possession which had already paid duties to the United States. To propose such terms was a mere mockery. And here I ought to observe, in justice to yourself, that we do not believe there is any truth in the assertion of the Mexican commissioners that you had proposed (if the other terms of the treaty were made satisfactory) to refer to your Government, 'with some hope of a good result,' the question of surrendering to Mexico that portion of the sovereign State of Texas between the Nueces and the Rio Grande, or any part of Upper California."

He was dismissed and ordered home because he even entertained proposals of that description. I will read, sir, an extract from a despatch of Santa Anna, after the battle of Buena Vista, to show in what light he regarded this question. Under date of the 27th February, 1847, he writes to his government:

"From the impression we had made on the enemy, he did not appear before us for three days; the bearer of the flag, however, arrived with a proposition from General Taylor for an exchange of prisoners, and for our sending for the wounded who had remained on the field. He also expressed to me the desire which the Americans felt for the re-establishment of peace. I replied—in order that he might say the same to his general—that we sustained the most sacred of causes—the defence of our territory, and the preservation of our nationality and rights; that we were not the aggressors, and that our government had never offended that of the United States. I observed that we could say nothing of peace while the Americans were on this side of the Bravo, or occupied any part of the Mexican Territory, or blockaded our ports, and that we were resolved to perish or vindicate our rights; that fortune might not always be favorable to the enemy; and the experience of the 22d and 23d should convince them that it could change."

From this it will be seen how Santa Anna himself, pending these negotiations and before any treaty was formed, regarded this matter. I will now show what was the opinion of the Mexican commissioners, even after the treaty was made. These commissioners, in a communication which they made to their government, and which was published all over Mexico, declare that—

"The intention of making the Bravo a limit has been announced by the clearest signs for the last twelve years; and it would have been impossible, at the present day, to change it. *After the defeat of San Jacinto, in April,* 1836, *that was the territory which we stipulated to evacuate, and which we accordingly did evacuate, by falling back on Matamoras.* In this place was afterwards stationed what was called the Army of the North; and though it is true that expeditions and incursions have been made there, even as far as Bexar, we have very soon retreated, leaving the intermediate space absolutely free. In this state Gen. Taylor found it when, in the early part of last year, he entered there by order of his Government."

This, sir, is sufficient to show in what estimation it was held there. Under this state of things, the Mexicans, after they had broken off this communication with Mr. Trist, again opened negotiations, and made the treaty which is now the law of the land. Mr. Trist, in making this treaty, has the instructions of his government in his hand, and it is idle to say for a single moment that the question of the Texan boundary did not enter fully into that negotiation. It is charged now, and always has been, as the cause of the war.

The establishment of the boundary of Texas was the object of this Government: it had formed the subject of instructions to both our commissioners, and a map had been furnished to Mr. Trist as a part of these instructions. That map I have before me: here it is; and it shows that all of New Mexico is on the west side of the Rio Grande, and describes all east of it as Texas. Now, with the instructions to Mr. Slidell, in the first place, before him; with similar instructions also in his possession; with this map, too, before him, distinctly designating all this territory east of the Rio Grande, up to the 42d parallel of north latitude, as being part of Texas; and with a letter in his pocket dismissing him and ordering him home, because he even offered to leave anything about the Texas boundary open for further discussion—with all these evidences, is it not preposterous to say that the question was not among the first which presented itself to the attention of the American commissioner in his negotiations? What the Mexican commissioners say is clearly evidence that the question was so understood on their part. Under these circumstances, the treaty was negotiated; and it has also a direct reference to this map. It has, I repeat, a direct reference to this map, as follows:

Fifth Article of the Treaty with Mexico.

"ART. V. The boundary line between the two republics shall commence in the Gulf of Mexico, three leauges from land, opposite to the mouth of the Rio Grande, otherwise called Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence, up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence westwardly, along the whole southern boundary of New Mexico, (which runs north of the town called *Paso*,) to its western termination; thence northward, along the western line of New Mexico, until it intersects the first branch of the river Gila; (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same;) thence down the middle of the said branch and of the said river, until it empties into the Rio Colorado; thence across the Rio Colorado, following the division line between Upper and Lower California, to the Pacific ocean.

"The southern and western limits of New Mexico, mentioned in this article, are those laid down in the map entitled 'Map of the United Mexican States, as organized and defined by various acts of the Congress of said republic, and constructed according to the best authorities. Revised edition. Published at New York, in 1847, by J. Disturnell.' Of which map a copy is added to this treaty, bearing the signatures and seals of the undersigned plenipotentiaries. And, in order to preclude all difficulty in tracing upon the ground the limit separating Upper from Lower California, it is agreed that the said limit shall consist of a straight line drawn from the middle of the Rio Gila, where it unites with the Colorado, to a point on the coast of the Pacific ocean, distant one marine league due south of the southernmost point of the port of San Diego, according to the plan of said port made in the year 1782, by Don Juan Pantoja, second sailing-master of the Spanish fleet, and published at Madrid in the year 1802, in the Atlas to the voyage of the schooners *Sutil* and *Mexicana*—of which plan a copy is hereunto added, signed and sealed by the respective plenipotentiaries.

"In order to designate the boundary line with due precision, upon authoritative maps, and to establish upon the ground land-marks which shall show the limits of both republics, as described in the present article, the two governments shall each appoint a commissioner and a

surveyor, who, before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the port of San Diego, and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep journals and make out plans of their operations; and the result agreed upon by them shall be deemed a part of this treaty, and shall have the same force as if it were inserted therein. The two governments will amicably agree, regarding what may be necessary to these persons, and also as to their respective escorts, should such be necessary.

"The boundary line established by this article shall be religiously respected by each of the two republics, and no change shall ever be made therein, except by the express and free consent of both nations, lawfully given by the general government of each, in conformity with its own constitution."

This map, thus referred to by its title, author, and date, was the one sent out and referred to in the instructions to Mr. Trist, who negotiated the treaty. Not only is it referred to by its caption; but, sir, it is signed and sealed by the commissioners on the part of both nations, and comes back here part and parcel of the treaty. It came into this chamber as such, and every Senator who was here at the time will recollect that we purchased a number of these maps, and that they were on every desk here during the discussion of this treaty; and I ask you now to show me a single foot or an acre of land which is laid down on this map as New Mexico east of the Rio Grande. And yet it seems all this amounts to nothing! This map, thus established, referred to, and made part of the treaty itself, and which was discussed here and ratified as a part of that treaty, is to be argued out of it, and one-half of her territory, according to that map, taken away from Texas. This may be accomplished: Texas has but a feeble advocate, and she stands opposed by one of the most powerful names in the country—one whose very dictum is law; but if he does succeed in arguing this map out of the treaty, he will have accomplished what oratory never did before, in my opinion, either in ancient or modern times. Not only will it perpetrate a deep wrong upon the State which I in part represent, but it will accomplish another thing: it will add a chapter to the history of this Government which it will be hard to reconcile to our notions of magnanimity and justice.

Sir, this question is now up, and it should be determined. It has been the fruitful theme for stump orators all over the United States, and the topic of discussion in this and the other branch of Congress, even when a post office was to be established, or when anything in the slightest degree connected with Texas was under consideration. It is now again before the Senate, and I call upon Senators to determine this question. It is due to their own reputation as well as to the State of Texas. Sir, she has nothing else with which to pay her just debts. This territory has cost her dearly; and, indeed, all her rights have cost her dearly. For the sake of those rights she, with less than 30,000 people, was bound to go to war with and run the risk of extermination from a nation of eight millions. Her sons went to the field of battle, and her daughters had to leave their homes and seek safety from a merciless enemy, and from the Indian tomahawk, this side of the Sabine. All these risks and dangers were incurred in defence of this boundary. Yes, sir; she stood by it then, and since she has been annexed it has been fully respected by this Government: in proof of which, allow me to refer to President Polk's message of 24th July, 1848:

"Under the circumstances existing during the pendency of the war, and while the whole of New Mexico, as claimed by our enemy, was in our military occupation, I was not unmindful of the rights of Texas to that portion which she claimed to be within her limits. In answer to a letter from the Governor of Texas, dated on the 4th of January, 1847, the Secretary of State, by my direction, informed him, in a letter of 12th February, 1847, that in the President's annual message of December, 1846, 'you have already perceived that New Mexico is at present in the temporary occupation of the troops of the United States, and the government over it is military in its character. It is merely such a government as must exist, under the laws of nations and of war, to preserve order and protect the rights of the inhabitants, and will cease on the conclusion of a treaty of peace with Mexico. Nothing, therefore, can be more certain than that this temporary government, resulting from necessity, can never injuriously affect the right which the President believes to be justly asserted by Texas to the whole territory on this side of the Rio Grande, whenever the Mexican claim to it shall have been extinguished by treaty. But this is a subject which more properly belongs to the legislative than the executive branch of the Government.' The result of the whole is, that Texas had asserted a right to that part of New Mexico east of the Rio Grande, which is believed, under the acts of Congress for the annexation and admission of Texas into the Union as a State, and under the Constitution and laws of Texas, to be well founded; but this right had never been reduced to her actual possession and occupancy. The general Government, possessing exclusively the war-making power, had the right to take military possession of this disputed territory, and, until the title to it was perfected by a treaty of peace, it was their duty to hold it, and to establish a temporary military government over it, for the preservation of the conquest itself, the safety of our army, and the security of the conquered inhabitants."

And also Mr. Polk's annual message of 1849, relating to Texas, New Mexico, and California:

"The existing condition of California, and of that part of New Mexico lying west of the Rio Grande, and without the limits of Texas, imperiously demand that Congress should, at its present session, organize Territorial Governments over them.

"Upon the exchange of the ratifications of the treaty of peace with Mexico of the 30th of May last, the temporary governments which had been established over New Mexico and California by our military and naval commanders, by virtue of the rights of war, cease to derive any obligatory force from that source of authority; and having been ceded to the United States, all government and control over them, under the authority of Mexico, had ceased to exist.

"Impressed with the necessity of establishing Territorial Governments over them, I recommended the subject to the favorable consideration of Congress in my message communicating the ratified treaty of peace, on the 6th of July last, and invoked their action at that session. Congress adjourned without making any provision for their government.

"The inhabitants, by the transfer of their country, had become entitled to the benefits of our laws and Constitution, and yet were left without any regularly organized government.

"Since that time, the very limited power possessed by the Executive has been exercised to preserve and protect them from the inevitable consequences of a state of anarchy. The only government which remained was that established by the military authority during the war. Regarding this to be a *de facto* government, and that, by the presumed consent of the inhabitants, it might be continued temporarily, they were advised to conform and submit to it for the short intervening period before Congress would again assemble and could legislate on the subject. The views entertained by the executive on this point are contained in a communication of the Secretary of State, dated the 7th of October last, which was forwarded for publication."

The claim of Texas to this territory has found no question from Mexican authorities, and has found none except in the United States. This territory is hers by every title; it is hers now. She owes just debts, and she cannot yield it without a full compensation. She will make no threats against this Government; she will use no threatening language; but she is under obligations to her creditors—nay, to the widows and orphans of those who fell in the achievement of her independence—which it would be disgraceful in her to forget for a single moment; and she will insist upon those rights, as secured to her in the resolutions of annexation and the treaty which followed them. I appeal, therefore, to Senators to come up and meet this

question fairly and on its own merits, to avoid mixing it up with the question of slavery or no slavery, and to decide the question on the principles of justice. This is all that Texas asks, and this is what she has a right, under the terms of annexation, to expect from the United States.

Mr. R. here gave way to a motion, by Mr. CASS, for an adjournment; which was agreed to.

THURSDAY, FEBRUARY 28.

Mr. RUSK. Mr. President: I completed, yesterday, the remarks which I desired to offer, and presented the facts which I proposed to present, in regard to the third resolution offered by the Senator from Kentucky. I proceed now, sir, to the consideration of his second resolution. I happen to be one of those who believe that we have arrived at a much more dangerous crisis than seems generally to be supposed. Notwithstanding it is admitted that for three years a violent contest has been going on, and that during the whole of that time inflammatory appeals have been made, not to the judgment, but to the prejudices of the different sections of the Union, still it is contended that the Union itself is in no danger, and that it will be preserved, let this controversy terminate as it may in the Congress of the United States. I differ in opinion from those who are impressed with this idea. I have heard too much, here and elsewhere, of the "backing out" of one or the other section of this Union. It has been a favorite form of expression, used by both sections, that the opposing section would back out. Now, Mr. President, I doubt this; and it is my opinion that any considerable number of the American people who conceive that their rights have been or are about to be trampled upon will never "*back out.*" You may force them to an unwilling acquiescence; you may even exterminate them; but I think, sir, that from the St. Lawrence to the Rio Grande, there is a spirit existing in the American bosom, however strongly they may be attached to the Union—I think there is a spirit existing every where, all over this broad land, that would never allow the people to submit to what they consider a wrong or a degradation imposed on them, come from what quarter it may. It is a dangerous mistake to suppose that they will do it; and, in my opinion, it is the wrong spirit in which to approach the adjustment of this question. I regretted, therefore, to hear my friend from New Jersey (Mr. MILLER) talk about his State standing until the last gun was fired for the preservation of this Union. You cannot preserve this Union by the firing of guns. The first gun fired against any State, in her capacity as such—you will pardon my expressing the opinion—will be the death-knell of this Union. It was not so formed. It was never based upon the *fears* of the people. The Constitution, which is the bond of Union, is something more than a mere piece of parchment; it is the embodiment of a living, vital principle; it was intended to exist as such, and it must exist as such, protecting the interests of all. Whenever it ceases to do so, from that day forth does this glorious Union virtually cease to exist. I therefore beg gentlemen not to act hastily or imprudently in this mat-

ter. I know that strong positions have been assumed by the Legislatures of different States, on opposite sides of this question. I hope that we shall yet find common ground upon which we can all meet here. The resolutions of the Senator from Kentucky are objectionable to me, and I cannot vote for them, because I do not believe that if they are passed they will be acceptable to the South. But I was glad to see the spirit in which they were offered, and to hear the declaration of the Senator that he was not particularly attached to them; that he desired discussion on the subject, so that the rights of all might be investigated, and that he cared not what amendments might be made to them. The motives he had in view in offering those resolutions, I commend highly, and I hope they will animate the bosom of every Senator who shall vote upon this question. His great object seemed to me to be to discard sectional issues and strife, and to bring about a return to those better days of the Union, when fraternal feeling existed all over the land.

I now proceed to the consideration of the resolution to which I have referred:

"2d. *Resolved*, That as slavery does not exist by law, and is not likely to be introduced into any of the territory acquired by the United States from the republic of Mexico, it is inexpedient for Congress to provide by law either for its introduction into or exclusion from any part of the said territory; and that appropriate territorial governments ought to be established by Congress in all the said territory, not assigned as the boundaries of the proposed State of California, without the adoption of any restriction or condition on the subject of slavery."

The Senator was pleased to say that this resolution contained two great truths—one of law, and one of fact. Well, sir, the resolution in its present shape decides the question of law that slavery does not exist in the Territories; or, in other words, that no one owning slaves can carry his property there and retain them as such. This is deciding and not compromising the question. It is a direct decision upon the whole subject-matter of the very point in controversy from the beginning. From the start this has been the issue that has divided us; it is the question upon which we have split from the commencement of this discussion. It has always been urged by the people of the South that, as soon as this territory was acquired, they had the right in common with their fellow-citizens of the North to go there with their property, even in slaves, and that they were protected in that right by the Constitution of the United States, inasmuch as the territory was the common property of the Union.

Sir, the first argument with which we were met was, that the law of Mexico had abolished slavery in those Territories; that such a law remained in force when we acquired the Territories; and that therefore slavery was excluded from their limits after the acquisition. Now I will not take up the time of the Senate in reading those laws, but I will refer to them briefly. The first is a decree of a dictator in Mexico in the year 1829. That decree is now asked to be enforced here as law, and we are asked by the terms of this resolution to declare that it is now, notwithstanding the disavowal of the authority by which it was passed by Mexico, the law of the land. Sir, we ought to pause in this matter and recollect that there have been a great many decrees made by Mexican dictators. But this decree is in direct violation of several articles of the Mexican constitution then

in existence—the constitution of 1824; for instance, the article declaring that "the Mexican nation adopts for its form of government a popular representative and federal republic." There are other matters in relation to this point, by reading which I will not fatigue the Senate, going on to adopt the very same principle with regard to the right of the several States to manage their own internal institutions and affairs, as is secured in the Constitution of the United States. Now, sir, who will say that if we were here to day to invest the President of the United States with supreme political power, and he should undertake to issue a decree abolishing slavery throughout the Union, it would have the force and effect of law? Yet such was the operation in Mexico; for her constitution is as stringent and as clear and direct on this subject as ours is. But, say gentlemen, this law was reaffirmed by the Mexican Congress in 1837. Well, sir, as it was a law directly at variance with the constitution, the fundamental law of the land, if they had enacted it a thousand times over, having its origin in a violation of the constitution, it was a law utterly null and void. But we are told that a constitution, which was read by the Senator from Missouri, (Mr. Benton,) which was adopted by Mexico in the year 1843, absolutely abolished slavery. This may be the case; but take up the history of the Mexican republic, and you will find revolution after revolution occurring, and constitution after constitution adopted—so that it is with extreme difficulty, amid all this confusion, that one at this day can ascertain what the Mexican laws really are. One day a plan of government is established by some successful military leader, only to be overthrown on the next, and a new system substituted. The constitution of 1824 has never been abolished by the people themselves, but only overthrown by the military leaders; and whenever they have been put down, the government has always fallen back on that constitution, and gone on under it.

But suppose this law really did exist, and that, on the very day these Territories were ceded to the United States, it was in full force and effect: does it prove anything in favor of the proposition contended for? Carry it out, and what does it show? The argument is, that this constitution of 1843 was in existence, and is now in existence in California and the rest of the Territories. If a part of it be in existence there, by parity of reasoning, all of that constitution is in force in those Territories; and how are we to get clear of it there? Only by the means pointed out in the Constitution itself—by an alteration of it; and we of the slaveholding States are asked to agree to this, and to forsake the ground upon which we stand, and which we think invulnerable! In negotiating the very treaty by which we acquired this territory, the Mexicans asked that the laws in regard to the exclusion of slavery in the Territories should remain in force, and we refused to insert such a condition. The Supreme Court of the United States, quoted so often in regard to its decisions on these points of law, declares that all political laws, as a matter of course, cease to operate as soon as the jurisdiction passes from one sovereignty to another. And is this not a political law? and can the decision of the Supreme Court be tortured to mean anything more or less than this—that laws which refer only to contracts and rights between individ-

uals on the soil are confirmed and continue to operate under the transfer of sovereignty? Is not such the case? If so, admit the whole argument, and say that, by force of law in Mexico, slavery is abolished; and then, instead of coming to the point where a direct conclusion can be made, Senators have only reached the beginning. For we contend that the moment this territory came under our jurisdiction, this law, if it did exist before, ceased to operate. We have shown our sincerity in this belief by agreeing to submit the matter to the Supreme Court. What objection could there be to that tribunal? It stands as high as any other judicial tribunal in the world; and when the chance was that peace and quiet might be restored to the land by its decision, was it not desirable? This was what the South came forward and offered to do.

But I have not quite disposed of this subject of the Mexican law; and I will add a few words in respect to slavery in Mexico, as connected with it. Mexico is held up as a model for us in our action touching this institution, and demagogues who have said so much on the subject have pointed her out as a bright example for us to follow. If her laws in relation to the abolition of slavery are now in force in the ceded Territories, then all her laws on the subject of bondage are. There has never been much of African slavery in Mexico, and there is a very good and substantial reason for it, founded, not on her superior regard for the rights of man, but on the peculiarity of her laws.

Slavery is an institution of the civil law; and this law from the beginning was paramount in Spain, and of course in Mexico, as a Spanish colony. All our notions on the subject are derived from the civil law—slavery being first introduced from civil-law into common-law countries; and to that law we refer in matters of slavery. One of the principles of this law, which is now in full force in Mexico, recognizes *peonage;* and if the law abolishing slavery exist in the acquired Territory, it must be remembered that the law which authorizes the peonage system exists there also. Slavery, according to the civil law, is based on the ground of a debt due from the slave to his master; as when he had been taken in war, in return for saving his life, he was obliged to be the slave of his owner so long as his life lasted. This principle is further carried out; and in Mexico, at this moment, if an individual owes to another a dollar, he becomes virtually his property—he and his family—until the amount is paid; and he can be brought before any alcalde and compelled to yield service. This is the kind of slavery which has existed in Mexico, and which has obviated the necessity, if not caused the abolition, of African slavery. On this subject I speak what I know; for I have stood by and seen the law declared and carried into execution by the alcalde. The moment an individual fails to pay a debt due to another, that moment he and his family become the servants of the creditor until the debt is paid, which may be forever; because the creditor charges the debtor what he pleases for what he eats and wears, and thus can always keep him in his debt. If an escape is attempted, the laws aid the creditor in the arrest and restoration to him of the fugitive debtor. This kind of slavery is far better for the master, but infinitely worse for the servant, than the system of African slavery as it exists in this country.

Here the owner of a slave is bound to furnish him with raiment, with food—to take care of him when he is sick; and when age or disease has rendered him totally useless, he is required by the laws of every State in this Union, where the institution exists, to take care of and provide for him. But under the system of peonage, no such obligations are imposed on the master. And if gentlemen prefer that kind of slavery to the slavery that exists in this country, I am ready to give them all the credit due their choice. That it is a great deal better for the master, there can be no doubt; because the moment a slave, from age or disease, or any other cause, becomes worthless, he can throw him on the public for support. It is not so, as all are aware, with the slave-owner in this country.

But we contend—and, as I think, fairly—that this matter should be regulated in this way: This territory has been acquired by the Government of the United States; and to whom does that government belong? Whose government is it that in the first place acquires this property? It is the government of the people and the government of the States of this Union. The property has been acquired by the joint effort of all the States. The Government in prosecuting the late war with Mexico, called upon Massachusetts and upon Texas for troops—as it had a right to and did call upon every State of the confederacy to furnish men to go and fight its battles. It took out of the treasury the funds raised by duties imposed on every citizen and all the States—slaveholding as well as non-slaveholding—of this Union, to defray the expenses of the war. All were equal in the fight; all stood on an equality, so far as furnishing the men for the armies was concerned; all were on a perfect equality, so far as paying the expenses of the war was concerned; all were perfectly equal, the slaveholding and non-slaveholding States, in these matters; and these black spots, about which we have heard so much were not perceived then. They were not perceived when the treaty of peace was sanctioned by the Senate, by which all this property was acquired. Now, we contend that the citizens of the slaveholding States have an equal share in the property thus acquired, and have a right to go there with their property. To say that a man may go there as his right, and not take his property with him, is, in fact, to confer no right at all. It is a barren right, and therefore amounts to nothing at all. But, say gentlemen, the possession of such property is a great sin. There was no such talk at the formation of the Constitution. Gentlemen *cannot reconcile it to their consciences*, as they tell us, to *establish slavery* in California. This is a sort of figure of speech. You do not establish slavery by permitting it to go anywhere. If all the slaves in the United States were permitted to go to these Territories, is it the establishment of slavery anywhere? Can it fairly be called the establishment of slavery? To establish slavery certainly means to convert a free man into a slave, and nothing else. It can mean but that. The truth is, that this cry about the establishment of slavery so much harped upon as an outrage upon the sense of the civilized world and as a sin in the sight of God, which I have often heard, and sometimes even in this chamber, all refers to a matter which took place a long time ago, and before this Constitution had

its existence. At that time, all hands were about equally involved in the crime, if crime it be. All the sections of this country took about an equal share in its *establishment.* I do not know, for I was not here then, but I have heard it said, that northern ships, manned by northern sailors, brought the slaves into this country. The establishment of slavery was, therefore, participated in by all the North as well as the South; and it seems to me then, if we do repent over the sins of our fathers, we ought to do it without such loud lamentations, the more especially when those lamentations are offensive to one portion of the Union that does not consider slavery as either a political or moral evil. I happen to be just one of that kind of men. I believe that the slaves in the South, take them all together, are in a much better condition than they would be in a state of servitude in the country from which they were brought. I have not been to that quarter of the world, and will not absolutely assert this to be the fact; but this much I do know, that they are infinitely better off than the free negroes whom I have seen at the North. They are an offcast, despised, and degraded race among you. You tell them they are free, but you give them none of the privileges of freedom. They fill your poor-houses and your penitentiaries, and swell largely your revolting statistics of crime. I repeat that the negroes of the South, as a class, are immeasurably better off than are the free negroes of the North.

It is clear you do not establish slavery by removing the slave; that you do not make a slave; but is said you are extending the political rights of the South. How so? Will they not be represented, if they are confined to the States where they are, just as much as when they are removed to California or New Mexico? It is only extending the area over which they go; but it does not increase their numbers. But I have been told that the institution must be confined to narrow bounds, in order to prevent its increase. What does this argument amount to? Is it creditable to human nature? You must so confine this unhappy race—you must so cut them off from every comfort, so disregard them as human beings, as to check the natural increase of population. If you wish to get clear of them, take them out and shoot them, I beseech you, because then they will die immediately; but do not punish them with a living death, which is to last for generations. We claim this common right, and you seek to deny it to us, on the ground that it is a sin; and you consider this no insult, no degradation, to those who possess slaves. Let us reason calmly—let us forget for a single moment the storm you have raised, and reflect what it is your duty to do under the existing circumstances. Sir, if two Indians were to hunt in common and take game, and a dispute were to arise, and one, because he happened to be larger than the other, or because he happened to have some accidental advantage, should attempt to seize the whole, the sense of justice of both would revolt at the proposition.

Under such a state of things, is it all astonishing that there should be excitement? And I ask gentlemen who come here, and tell us that slavery does not exist by law in these Territories, to bring forward some measure of compromise. Shall we run the risk of the conse-

quences that may and I believe will follow from this invidious and unequal legislation.

Sir, so far as I am concerned, since the very commencement of this difficulty, I have seen mischief in it. I have been very anxious that it should be settled, and settled upon almost any terms that should allow the representatives of the slaveholding and non-slaveholding States to meet here, as our fathers did, after the formation of the Constitution, as equals, and to feel that we are so.

What is it that you desire? You seek to imbody in a legislative enactment of this Government—the constitutional power of which has been denied—and I have not yet heard the argument of the honorable Senator from Michigan successfully answered—you are seeking, I say, to imbody certain sentitments—you say of righteousness, but I say, sickly sentiments. We differ in opinion on that subject. You are seeking to adopt a sentiment, a mere sentiment. How did that sentiment originate? It was introduced as a political hobby. It commenced with a distinguished gentleman—I do not know whether he was particularly distinguished before the introduction of that hobby, but he has been so since—a distinguished member of the House of Representatives, before we had an acre of land to divide. Who started it? Where did it come from? Sir, it has been continued in every shape and form in which it could be brought up. He was not permitted to enjoy the *eclat* of the movement alone. It is true he was the first to saddle and bridle the animal, but he was not permitted to ride it alone; there were thousands who mounted it with him. In the elections for sheriff, for constable, for members of Congress, and for Senators, the subject was made a ground of political advancement. For this I have the authority of a Senator from New Hampshire, (Mr. HALE;) and there was an aspirant for the Presidency, whose friends mounted him, booted and spurred, upon the same animal. Sir, this subject is one that has been productive of nothing but excitement and bitterness of feeling—ay, madness—from the time it originated; and it is my conviction it will continue to be so, until it is finally disposed of. What is all this discussion to end in? After California is admitted into the Union—next year, if she chooses—she may establish slavery within her borders; she may, at any future time, by altering the provisions of her constitution, allow slave property to be carried there. All this is true; and yet gentlemen from the North insist, with a pertinacity almost unaccountable, that a paltry abstraction shall be conceded to them.

I ask Senators to look at this subject uninfluenced by prejudices, and in a spirit of candor. We of the South are willing to settle the question on just principles now, and we always have been willing thus to settle it. It was upon the motion of a Senator from a slaveholding State—now no longer here—the Secretary of State at present—that a compromise bill was reported to the Senate, asking for the reference of the entire matter to the Supreme Court. The bill passed here, and was rejected in the House of Representatives. This was not all. The next proposition for an adjustment came from a Senator from a non-slaveholding State. The Senator from Illinois—not now

in his seat, (Mr. Douglas)—actuated by the most pure and patriotic motives to make an endeavor to settle this whole difficulty—came forward and offered what at once would have settled this entire question—the Missouri compromise. The South met it in this chamber, and passed it; but it was rejected by the non-slaveholding States in the other House. Another Senator from Wisconsin (Mr. Walker) came forward with another proposition still more liberal in its terms, conceding much more than the North had a right to ask or demand. That measure was adopted in this chamber; yet the free States rejected it in the other House; and now, sir, we find ourselves just as far from an adjustment of the pending dispute as we were at the beginning of the controversy. It is time, Mr. President, that upon this subject we pause and reflect. We of the South ask nothing but what is right; and can you expect us to submit to anything that is wrong? Can you, sir, abrogate the provisions of the Constitution, which guaranties to the citizens of every State in this confederacy equal rights and privileges, by denying to us the exercise of those rights, and demanding that we shall submit to wrong? Can you suppose for a moment that such palpable wrong as this will be submitted to? If we were to yield what we consider our just constitutional rights, growing out of the free principles in which our Government is founded, and the perfect equality of the States guarantied when that Government was formed, and acquiesce quietly in the terms which you might see fit to dictate to us, you would never respect us any more. I pray God, sir, that no such alternative as that of submission to encroachments on our rights will be attempted to be forced upon us; that, in order that this Union may be preserved, Senators will pause and reflect before they proceed to extremities; and that, by due consideration of the provisions of our common Constitution, their minds may become infused with the spirit which caused such fraternal action on the part of those who framed that sacred instrument, and then, coming forward and deliberating upon the proposition offered by the Senator from Kentucky; from Tennessee: or any other that may be presented, they may unite in forming some general plan that will settle at once and forever the vexatious questions that are now in issue between the two great sections of the confederacy.

This great question, sir, of slavery has been argued so fully and ably by Senators more able to do it justice than I can possibly be, that I shall not, on the present occasion, go any further into the discussion of it. I may, sir, in what I have already said, have spoken somewhat earnestly. If I have done so, sir, it has been with no disposition whatever to awaken unkind or bitter feelings, either in the hearts of Senators here or of any portion of the people of this country elsewhere. In what I may have said and done, sir, I have acted under what appeared to me to be the dictates of a solemn sense of duty, under the circumstances in which I am placed—a sacred duty to the Constitution which I am sworn to support—a sacred duty which I owe to the slaveholding State which I have the honor to represent; and therefore, actuated as I am solely by a strict sense of the obligations imposed on me as a Senator in this chamber, I spurn with indig-

nation any charge that I am in favor or desirous of the dissolution of the Union, because I thus candidly state what I consider to be the aggressions of the North upon the South, and the light in which these aggressions are viewed by us.

If, sir, I have any political attachment deeper in its feeling and extent than another, it is love to this Union. Sir, I, in common with my constituents, have recently given unmistakable evidence of our devotion to and attachment for this Union. I am attached to life by as many strong ties as bind any one in existence. But, if I know myself—if I could to day preserve this Union in the spirit in which it was formed—and, more than that, if I could preserve it with the fraternal feeling which should animate the breast of every American freeman in the land, and without which the Union would be worthless—I would meet death in any form in which it might be presented, and in doing so would feel that I was conferring upon my children, and upon the human family at large, the greatest legacy that could descend to them on this side of the grave.

SPEECH

OF

MR. MILLER, OF NEW JERSEY,

ON THE

PROPOSITIONS TO COMPROMISE

THE

SLAVERY QUESTION,

AND THE

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DELIVERED IN THE SENATE OF THE UNITED STATES, FEBRUARY 21, 1850.

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The Senate having resumed the consideration of the Compromise Resolutions offered by Mr. CLAY—

Mr. MILLER said: Mr. President, after the exciting and somewhat alarming debate which took place yesterday, it may do something to soothe the public mind to announce, at the renewal of the discussion to-day, a fact which I think may have some effect to allay the excitement which now seems to pervade the country. The President of the United States this morning left the city, passing away from the exciting scenes around us, for the purpose of being present to-morrow, the birthday of the Father of his Country, at the laying of the foundation-stone of a monument which is about to be erected at Richmond, in the glorious old Commonwealth of Virginia, to the memory of her most distinguished son. The omen is good, and I trust that that corner-stone will, while it perpetuates the name and the virtues of him to whom it is dedicated, add strength and security to the foundation of this glorious Union.

Before I proceed to discuss particularly the questions embraced in these resolutions I desire to call the attention of the Senate to a general view of our national and political affairs. The aspect is somewhat striking and incongruous. The country was never more prosperous than at this moment, and yet never so full of discontent and strife. The Union was never stronger than on this day, and yet many think that it is approaching dissolution. The people were never happier and more contented under their free institutions, and yet their representatives were never more alarmed and perplexed. All the great interests of the country, with one or two exceptions, are in a highly prosperous condition. Our national credit was never higher than at this moment. Our foreign commerce was never more successful, amounting in exports and imports to over three hundred million dollars. Our internal commerce is beyond calculation. From every portion of the country, North, East, West, and South, the productions of labor to an immense amount are passing freely and rapidly from one section of the Union to the other, up and down our magnificent rivers, through our canals, and over our railroads, reaching to every part of the country. We have, within the last ten years, by American capital and enterprise, constructed about five thousand miles of railroad, extending to and uniting together all

sections of this wide-spread country. Our national territory has been vastly increased, by the addition 851,598 square miles. Every kind of property has been protected by the strongest securities of wise and protecting laws. Even that peculiar kind of property, the protection of which now so agitates the country, has increased, under the protection of the Constitution, from 800,000 slaves in the year 1800, to 2,500,000 in 1840, and at this time perhaps amounting to 3,000,000. All the means and sources of national wealth are enjoying those securities which free government and wholesome laws can throw around them. Our commerce is as extensive as the world; our ships ride upon every sea, and no nation upon the face of the earth dares molest our flag. We are at peace with all the world, and holding friendly intercourse with every Government: yes, sir, with the Royalties of Europe, the Celestials of Asia, with the Indians of the north, and the half-naked barbarians of the South Sea Islands; wherever a government or a court can be found, or manufactured for the occasion, there is our presence manifested to protect our honor and guard our interests.

If we look at our internal affairs, the picture is equally bright. Our General Government moves in perfect harmony within its constitutional sphere. There is no conflict at the present moment between it and the State Governments. There is no complainton the part of any independent State in this Union because its rights have been interfered with by the General Government. All is moving in perfect harmony. Yet there is discontent and forebodings of evil in the land, and, notwithstanding the bright skies above us and around us, there are political astronomers keen of eye, who seem to think that they see in the distant heavens the gathering clouds which darken these bright skies, and that they will soon burst with destructive fury upon this happy people. These gentlemen look further into futurity than I can. I can see no such portents. I see these United States, the General Government, like a sun in the centre, shining brightly and more gloriously than ever, and around her thirty bright stars moving in perfect harmony. I have no fear that the system will not move onward and onward, through a long and glorious cycle, until God in his providence shall see fit to change its destiny. At this very moment twenty millions of freemen are living under the best system of laws ever devised by man; their daily avocations unoppressed by any tyrannical laws, undisturbed by any high-handed aggression upon their rights, and sending up no complaints against arbitrary government. From the extreme North, where the Yankee whaler strikes the monster of the deep, to the South, where the slave labors contentedly in the cotton-fields for his master—every where throughout this mighty empire, the rights of property and the rights of the citizens are protected and defended by the Constitution and the laws of the country.

I must be excused, with this view of our national affairs before me, when I say that I do not enter at all into those gloomy anticipations that possess the minds of some gentlemen here and elsewhere. Our ship of State, manned and fitted as she is, and with such a pilot at the helm as we have now, will sail on and onward through many a stormy sea. As she ploughs her way through the ocean of Time, see how the frail and weather-beaten barks carrying emigrants from Europe, gather around her with signals of distress, praying us to give them a safe passage. Then come the Hungarian patriots, the exiles from Erin,

the oppressed of every land. How readily and cheeringly we cry out, "Come aboard, there is room for all; our ship is strong, her decks are broad; come aboard and share equally with us a safe passage and a glorious destiny. I cannot believe that any of the old crew will turn mutinous and strand the ship.

With this general view of our national prosperity, I will now proceed to consider subjects of a more gloomy aspect—gloomy, notwithstanding all the general prosperity. There is much discontent in the land. The cry of usurpation, tyranny and oppression is daily ringing in our ears. The complaint comes but from but one portion of the Union—the South; and relates to but one subject—slavery. The South says that the North has for years been engaged in committing acts of aggression upon the constitutional and private rights of the people of the slave States. For these aggressions the Northern States—and by Northern States I mean free States—have been arraigned at the bar of public opinion.

These charges are of a grave and serious nature, and it is due to the honor of the parties and to the peace of the Union that they should be met and answered. And if it be true that the North has for a series of years been engaged in committing these aggressions upon the rights of their sister States, it is high time that they should be exposed, and a remedy provided against repetition. For my own State, I am sure she is all unconscious of any aggressions on her part upon the rights of any State in the Union; and if any have been perpetrated by her, she will be ready at all times, here and elsewhere, to make every proper atonement, and to consent to such laws as would leave no apprehension of their renewal.

Sir, it is not a light accusation to charge a sister State with acts of aggression and tyranny; I therefore wish to look into these alleged acts of aggression. And first I shall inquire into their nature and character; second, if they exist, what produced them; and, third, in what manner they should be settled and disposed of.

The general charge is this: that the North has committed certain high-handed acts of aggression on the constitutional rights of the South. This charge first assumed a responsible shape in a celebrated address known as the Southern Address, and published during the last session of Congress. In that address you will find this general charge, with specifications. I have looked into that address, and I find that the aggressions, as there set forth, are three in number. In the first place we are charged with violating the Constitution relative to fugitive slaves; second, with attempts to abolish slavery in the District of Columbia; thirdly, with prohibiting slavery from the Territories of the United States by an act of Congress.

In that address it is also stated that the objects of these repeated aggressions are to overthrow the institution of slavery in the States; second, the emancipation of the slaves, and their elevation to an equality with their masters; and third, a union of the North with the emancipated slaves of the South, and the exclusion of the white race. These are monstrous objects, and, if true, I do not wonder that the South are in arms against us of the North.

Now, Mr. President, I intend to plead to this indictment of the South against the North, *not guilty;* and, in the first place, I shall show that but one of these charges is true in fact, and that one not true in law.

With regard to the first charge: "Not complying with that clause of the Constitution which requires the surrender of fugitive slaves." The honorable Senator from Virginia, (Mr. MASON,) in his speech the other day, stated that we of the North were guilty of revolt against this clause of the Constitution, by combining together to prevent the surrender of fugitive slaves.

Now, sir, speaking for New Jersey, I know that that charge is unfounded. She has never revolted against this nor any other part of the Constitution. There never has been a time in the State of New Jersey, and I trust there never will be a time, when her people and all her officers, judicial and executive, will not be ready and willing to comply with the requirements of this portion of the Constitution, and aid in the delivery of fugitive slaves to their masters. And, in regard to this question generally, I have no doubt but all the Northern States, speaking through their representatives here, are willing to give all such laws as may be necessary for the purpose of a fair and *bona fide* execution of that clause of the Constitution. The difficulty has not arisen out of the action of the States. If there be any difficulty about this matter, it is owing to the non-action of Congress.

There is something worthy of notice, sir, in the history of the action of Congress upon this matter. Prior to 1792 the Constitution was left to execute itself. There were no complaints before that time. In 1791 a person was indicted in the State of New York for kidnapping—for carrying off a free person of color. Upon that indictment, and under the preceding clause of the Constitution relative to the surrender of fugitives from justice, the Governor of the State of New York applied to the Governor of Virginia to surrender this person who had fled from New York to Virginia. The Governor of Virginia, as appeared by the report made by the Senator from South Carolina, (Mr. BUTLER,) refused to make the surrender. Then, sir, for the first time, was the attention of this Government called to those two clauses of the Constitution relative to fugitives from justice and fugitives from labor. Gen. Washington sent a message to Congress stating the difficulty. This produced the act of 1793.

Mr. SEWARD, (interposing.) I rise for the purpose of making a correction, for I presume it might lead to misapprehension. The case to which the honorable gentleman refers was a case which arose between Pennsylvania and Virginia, and not between the States of New York and Virginia.

Mr. MILLER. I am very much obliged to the gentleman for the correction.

Mr. BUTLER, (in his seat.) It says in the report Pennsylvania and Virginia.

Mr. MILLER. I was mistaken. The Senator is right.

Then it seems that the first revolt against the Constitution was made by Virginia herself, by refusing to deliver up this fugitive from justice.

The law of 1793 is still in force, and is the only law of Congress upon the subject. If that law was not sufficient for the purpose of giving to the people of the South a sufficient protection to their property, it is not the fault of the States, but the fault of Congress for not passing other laws more efficient to the purpose.

With regard to the State of New Jersey, I will state briefly her position in relation to this matter. She was once a slave State herself. She experienced some of the difficulties in recovering fugitive slaves. She had laws upon that subject, which are still in force ; and, although she has no slaves now, she has, in compliance with the act of Congress and the Constitution of the United States, from time to time passed laws for the purpose of enabling the owner to reclaim his slaves ; and those laws give to the owner the same means of claiming or acquiring his slave property which are given to our own citizens for the protection of any property in the State. Thus far she has gone, and thus far she is willing to go for any law that may be passed by Congress. But the difficulty is not now with the States. By the decision of the case of the Commonwealth of Pennsylvania *vs.* Prigg, the Supreme Court of the United States have decreed that all legislation upon that subject by the States is void; that they have no jurisdiction over the subject whatever. That is the decision of the Supreme Court, as I understand it; and the honorable Senator from Kentucky (Mr. Clay,) was, I think, mistaken in the view he took of this case, in supposing that the question of concurrent jurisdiction was not a point expressly decided by the Court. It will be found, upon an examination of the case, that it was held by a majority of the Court, Justice Story delivering the opinion, that the power of legislation in relation to fugitive slaves is exclusively in the National Legislature; that it was an exclusive jurisdiction on the part of the General Government, and that the States could pass no laws upon the subject. And upon that very point Chief Justice Taney disagreed with the majority of the Court, and held that, though a State could not pass any law in conflict with the law of Congress, yet it might pass laws in aid of the general power. Thus stands the law with regard to the first aggression complained of. If there be wrong and neglect anywhere, Congress, and not the State Governments, is to blame, and should give the relief.

But we are told that the difficulty lies with the people of the States who entertain hostile feelings against the institution of slavery—that they interfere with the execution of the laws, and frequently obstruct the *master* in the pursuit of his slave. I have no doubt that there are cases of this kind. But, Mr. President, it must strike every one, that there is a difficulty inherent in the nature of the case itself, arising out of the peculiar property claimed; and it will be found almost impossible for us, by any law of Congress, to overcome these difficulties. While we acknowledge the right of the master to reclaim his slave, and also our duty under the Constitution to surrender the slave to the master when he comes into our State, and give him the aid of our law and of our courts to reclaim his slaves, in the same manner and to the same extent as enjoyed by our own citizens in defence of their property, we ought not to be called aggressors upon his rights, because we do not control every sudden outbreak of popular feeling upon the subject of slavery.

But, sir, I am not aware that the people of the State of New Jersey have thrown any such obstacles in the way of reclaiming fugitive slaves. On the contrary, sir, the complaint there is, that you do not keep your slaves at home, that you suffer them to come upon us in such numbers that in some of our counties they are a perfect nuisance. It

is a well know fact, that from the States of Delaware and Maryland, slaves are in the habit of running away from their masters, harboring in our swamps and woods, and there living by depredating upon the property of our citizens. In most cases the master never comes for them at all; many are worthless slaves, I suppose, not worth the expense of carrying back. The difficulty in New Jersey has been, not about surrendering fugitive slaves to their legal masters, but rather how to get rid of those worthless slaves which you suffer to escape into our territory and to remain there to the annoyance of our people.

This charge against the North relative to the surrender of fugitive slaves, has been greatly exaggerated. But if the South require any further laws to protect their rights, I am willing, and I believe every Northern Senator here is ready and willing, to vote for any proper law which may be thought necessary to enforce to the fullest extent the constitutional rights of the South.

The next aggression charged upon the North is, that we are combined together to abolish slavery in the District of Columbia. This charge divides itself into two parts; first, domestic slavery in the District; and, secondly, what is called the slave trade. The people of the Northern States believe that Congress has the constitutional power to abolish slavery in the District of Columbia. Whilst we entertain no doubt upon this point, yet at the same time we have no disposition to exercise that power in a manner unbecoming fair legislation, and inconsistent with the rights of others; and the South, instead of charging us with an aggressive spirit, should be satisfied from the past history of Congress, that there is no disposition on the part of the North hastily to abolish slavery in the District of Columbia. This Government has been in existence over sixty years; and yet, sir, during all that time, no act has passed, to my knowledge, in either branch of Congress, for the purpose of abolishing slavery in the District of Columbia. We had the majority to pass the law, and we believed that we had the constitutional power; and yet, sir, slavery still exists in the District, and I doubt whether any bill has ever passed a committee of Congress upon this subject. Then, sir, how can this be charged upon the North as one of the aggressions upon the rights of the South? Senators tell us that they are threatened. How threatened? Why, by petition. By abstract resolutions, requesting and urging it to be done. This is true. Yet the fact remains that the so-called aggression complained of by the South has never been perpetrated by the North. I have no objection to state my views, both with regard to the power, and the exercise of the power, of the abolition of slavery in the District of Columbia. I believe we have the power, but I will not exercise that power unless it be at the request of the people of the District. If they ask us to interfere in this matter, I do not consider that we are restrained by any supposed compromise of the Constitution relative to the interests or the rights of the adjoining States. If the people of the District of Columbia desire slavery to be abolished, and compensation be made to the owners of the property, I cannot see how a law of Congress, passed in compliance with the wishes of the people of the District, can be tortured into an act of aggression upon the rights of the South.

Mr. Foote. Do I understand the gentleman to be in favor of abolishing slavery in the District, at the wish of a majority of the slaveholders, even if Maryland should oppose it?

Mr. MILLER. I say yes, because if the people of the District had the power of legislation for themselves they could do it, just as Maryland could do it now without the consent of Virginia. If a majority of her people were in favor of the abolition of slavery, her Legislature would carry out their wishes. So, if a majority of the people of the District desired slavery to be abolished here, I do not see why Congress should not act in compliance with their wishes. It would be doing nothing more than what they could do, if they had the power of legislating for themselves. And gentlemen might as well tell me that the people of this District, acting together, had not the power to set all their slaves free to-morrow if they choose so to do. No one can object to such an act of abolition; and yet it would have the same effect on Maryland and Virginia as if it had been done by Congress. Slavery would thus be abolished by the act of the people of the District. I believe Congress has the power to pass such a law, but I have never thought it expedient, without the consent of the District, to move in relation to this matter. I merely state what I believe is my constitutional right, and what I should be willing to do if a law of that kind should be presented for my vote.

Now, one word in regard to the slave trade in the District. I believe that this abominable traffic is now carried on in the District without any law to sanction it; and, if sanctioned at all, it is under and by virtue of the laws of Congress. If this be so, I trust Congress will have no hesitation in repealing the obnoxious laws.

By the act of the 23d of February, 1801, Congress extended the laws of Virginia and Maryland, as they then existed, over the District. By these laws the slave trade was prohibited in both those States; a slave could not be brought into either State for sale. And by the laws of Maryland no slave could be imported or brought into that State by land or water for sale, or to reside in the State; and all slaves so brought into the State were declared free.

This law of Maryland not only prohibited the slave trade in the county of Washington, (formerly part of Maryland,) but it also prevented the master from bringing his slave to reside in the county of Washington either from Virginia or from the county of Alexandria.

In order to relieve the inhabitants of the District from the inconvenience resulting from the prohibition of the law of Maryland relative to slaves brought into the District to *reside*, Congress passed the two laws which I will read:

"That no part of the laws of Virginia or Maryland, declared by an act of Congress, passed the 27th day of February, 1801, 'concerning the District of Columbia,' to be in force within the said District, shall ever be construed so as to prohibit the owners of slaves to hire them within, or remove to the said District, in the same way as was practised prior to the passage of the above recited act." [Act approved 3d May, 1802.

"That hereafter it shall be lawful for any inhabitant or inhabitants in either of the said counties, owning and possessing any slave or slaves therein, to remove the same from one county into the other, and to exercise freely and fully all the rights of property in and over the said slave or slaves therein, which would be exercised over him, her, or them, in the county from whence the removal was made, any thing in any legislative act in force at this time in either of said counties to the contrary notwithstanding." [Act approved June 24, 1812.

There is nothing, in my opinion, in either of these acts of Congress which repeals the prohibition against the slave trade contained in the laws of Maryland; and this odious traffic is now carried on against law,

and in opposition to a penal statute passed by a slave State. Yet, sir, the abolition of the slave trade in the District of Columbia is made a grave charge against the free States, and I believe it is stated in one of the Virginia resolutions, that if Congress abolishes the slave trade in the District, it will be considered such aggression upon the rights of that State as will authorize her to resort to ulterior measures of redress. I beg that respectable State, if she is preparing to take any measures whatever to resist what she calls an unconstitutional aggression by the North, in the first place to ascertain whether the aggression exists at all, and in the second place, if it does exist, whether its existence is to be attributed to the North. This ends, sir, the second aggression charged in the Southern address.

The third aggression charged upon the free States is, that they have combined together for the purpose of passing laws prohibiting the extension of slavery into the Territories of the United States. Now, before I proceed to consider this charge, I desire, in the first place, to state what I consider to be the true position of the North on this point. We believe, sir, that we have the constitutional power to prohibit slavery in the Territories. Secondly, we claim to exercise the power only over those Territories free at the time when we undertake to exercise that power; and, thirdly, we never have exercised that power over Territories legally subject to the institution of slavery at the time the power was exercised. Sir, these are no new positions. Congress has acted upon these principles ever since the establishment of the Government. It has become the settled policy of the Government to prohibit slavery in the Territories where it did not exist at the time they were organized into Territorial Governments. And I call upon Senators to point out, if they can, a single case where, in the formation of a Territorial Government, the Wilmot proviso has been applied by Congress to a Territory in which slavery existed at the time. There is not a single case—not one—in all the laws passed by Congress upon this subject. The same policy has been pursued with regard to our foreign acquisitions. In all the Territories acquired, where slavery existed at the time of the acquisition, there has been no interference with the institution; but where the territory acquired was free, then we have said it should remain free. The South has no reason to complain of this policy. Thus far it has operated greatly to their advantage.

Now, sir, as to the constitutional power of Congress to legislate upon the question of slavery in the Territories. I have no doubt of the constitutional power. But, as this point has been so ably argued by gentlemen who have preceded me, I shall not detain the Senate with any additional reasoning of my own. I prefer at this time to place myself upon the well settled construction which has been given to the Constitution by all the departments of this Government. I hold that it has been long and well established, that Congress has the power, if it thinks proper to exercise it. Until within a few years past, the power has not been questioned by the South. We exercised it without opposition, when, in 1804, we established the Territory of Louisiana, where slavery existed at the time. In the law creating the Territorial Government for that Territory, Congress prohibited the slave trade within its limits; that is, the bringing of slaves into the Territory by persons who were not

bona fide owners, and who removed there for actual settlement. I read from the act:

"No slave or slaves shall be directly or indirectly introduced into said Territory, except by citizens of the United States removing into said Territory for actual settlement, and being at the time of such removal bona fide owners of such slave or slaves; and every slave imported or brought into said Territory contrary to the provisions of this act, shall thereupon be entitled to receive his or her freedom."

Now, sir, it is said that the exercise of this power by Congress, regulating slavery in the Territories, is a most flagrant abuse and aggression on the rights of the South; yet we find that in 1804, in a slave Territory, too, Congress did without opposition exercise this power. Many other cases might be named of the like exercise of the power, but I will not stop to cite them now. While upon this branch of the subject I wish to notice one part of the very able argument made by the distinguished Senator from Georgia (Mr. BERRIEN) relative to the constitutional right of the South to carry their slaves into the Territories. If I understood his argument correctly, it is founded upon the equality of the States at the time of the adoption of the Constitution; that they, being all equal, have an equal right to the enjoyment of all the property and Territories of the United States, and that therefore, if we exclude slavery from the Territories, we deprive the slave States of the equal rights secured to all the States by the Constitution. Now, I beg leave to remark, in the first place, that, although it be true that the States were all equal at the time they entered into the Union, and that the Constitution recognizes their perfect equality, yet it is equally true that the only mode in which the Constitution guards and secures that equality in the administration of the Government—in the passage of laws and in the disposition of national property—is by giving to each State an equality of representation in the National Legislature. In the Senate the States stand upon a perfect equality; small and great, all are equals. In the other branch of Congress the equality is preserved by the ratio of population in the respective States. This is the great principle of equality between the States, embodied in our Constitution. No law can be passed by Congress without each State and all the people of the States having a voice in the passage of the law. No law can be passed disposing of the common property of the nation or regulating the government of our Territories without every State being equally represented in its passage, and if a majority of the representatives from the several States pass such laws, they cannot be resisted upon the ground of inequality. The Senator also said, in support of his position, that if this proposition to prevent the people of the slave States from carrying their slaves into the Territories of the United States had been urged at the time of the adoption of the Constitution, the Constitution never would have been adopted; and so far did the Senator push this his point of equality between the States that he said:

"I maintain, and if it should be my fortune to be called upon to maintain it before another tribunal, I would maintain there, that an express provision in the Constitution interfering with the exercise of the equal right of free citizens would have been inconsistent with that elementary principle—the equality of right—which is the basis upon which the Constitution rested, and that it would for that reason have been invalid and null and void."

This, I confess, struck me as a strange position, coming as it does from so distinguished a constitutional lawyer. An express provision of this

kind in the Constitution might be an objection to the adoption of that instrument; but surely, when it is once made an express provision of the Constitution, it cannot be expunged by any such process of construction. But, sir, was not the very question—the prohibition of slavery from territory of the United States—before the Convention at the very time they framed the Constitution? What was the situation of the country at that time? Why, sir, the only territory then belonging to the United States was the territory northwest of the river Ohio. By the ordinance of 1787 all the slave States were excluded from carrying their slave property into that Territory; so that, when the slave States adopted the Constitution and formed the Union as equal States, at that very moment the citizens of every slave State were excluded from carrying slaves into all the common territories of the United States. It is no answer to say that the ordinance of 1787 existed prior to the Constitution, and that it was a matter of compact between Virginia and the old Confederation. That does not alter the question of equality; because it is no matter what produced this result, the fact of exclusion was distinctly presented; and at the time the Union was formed the slave States expressly understood that they could not carry their slaves into any of the then Territories belonging to the United States; and by a subsequent act of Congress this exclusion was confirmed.

But, Mr. President, is there any inequality in this prohibition? I maintain that there is none; none whatever. When we prohibit slavery from going into a Territory of the United States, that prohibition operates upon all the States, and upon all the people of the several States equally. It does not permit one man to carry his slaves there and exclude another, but it excludes all; and is it any answer to say that, because the people of some of the States in the Union own this description of property, that therefore it is an unequal law with regard to them? Their right to this peculiar property is local, founded upon State institutions. They own it only under the laws of their own States, and their title exists alone by virtue of State laws. The moment they carry a slave beyond the jurisdiction of a slave State into a free State their title ceases to exist. If, therefore, in the establishment of a Territorial Government, we exclude a species of property which only exists by virtue of local laws in some of the States, it cannot be justly called an unequal law. In establishing a Territorial Government we have regard to the interests of the people of the Territory; to the community, political and social, which is to grow up and become a State in that Territory; and if a majority of the people of the Union, speaking through their representatives here, think it best for the interest of the Territory to prohibit the establishment there of a local institution which exists in South Carolina, it cannot be considered an aggression upon the rights of any portion of the people of the Union.

Sir, we are too much in the habit of thinking, when we make Territorial Governments, that we are legislating for the people of the old States, and with reference to the local institutions of the different States of the Union. It should not be so. We establish the government for the purpose of training and bringing up a community through all the course of the Territorial progression, until it becomes a State, when the people take the government into their own hands and establish their institutions for themselves. Until that time it is under our care. I main-

tain and believe it to be the general sentiment of the North that Congress has the power to exclude slavery, and that that exclusion is no aggression whatever upon the equal rights of the South.

But, sir, the question now presents itself in a much more direct and pointed manner upon the admission of California as a State into the Union. It is said, in advance, that if we admit California as a State, with her present constitution, formed in the manner in which it is said to have been formed, that it will be another aggression by the North upon the rights of the South. California was brought under the control of our sovereign power by the treaty with Mexico. By that treaty we engaged to receive the people of California as citizens of the United States, and, as soon as Congress thought proper, to admit them into the Union upon an equality with the other States. Last session, or the session before, it was proposed to give a government to California. Various bills were introduced for that purpose, and a bill passed the other House creating a Territorial Government. It came here and was defeated. Various other projects were offered by different Senators for the purpose of giving California some kind of government, but they all failed, and California to this hour has been left without a government. The difficulty was this very question of slavery—the prohibition of slavery or the non-prohibition of it in the Territories. One gentleman contended that Congress had not the constitutional power; another contended that the people of the Territory had the power, and that it must be left to them; and other gentlemen contended that the question could only be settled by the people of California in the formation of a State constitution, in which way it was admitted by all, they had the right to settle this question for themselves.

Well, sir, it has so turned out that California has settled the question, and settled it, too, precisely in the way in which we all agree she had the right to settle it—by the formation of a State constitution, in which her people had the right to admit or prohibit slavery. She has taken this question, as gentlemen say, into her own hands, and has settled it forever. She has taken the Wilmot Proviso in her own hands, and relieved Congress from the difficulty which prevented action on the subject during the two last sessions. She now comes here and presents her constitution, and what is said? Why, gentlemen tell us that this constitution is illegal, fraudulent; the result of trick and management; that there has been an interference on the part of the Government; and it is gravely charged that the Executive coerced, or, to use more moderate terms, persuaded the people of California to put in their constitution the prohibition of slavery.

Now, it is hardly necessary for me to stop for the purpose of defending the character or the conduct of the distinguished patriot who is at the head of the Executive Department of this Government; for no man who knows him would ever believe that he would be a party to any attempt to coerce or persuade the people of California to do what is here charged. Sir, the character of that distinguished man, personal and official, is before the country and before the world. Every thing that he does is done in an open and direct manner. In all his former official life, in all his administration of the affairs of this Government, there is no trick, no intrigue, no concealment to be found; there is no going round the bush, no dodging, either in the field or in the Cabinet; but all is di-

rect, open, and aboveboard; and all that he has done upon this subject is before the country and before Congress.

What has he said and done upon the subject? Why, sir, he sent a Commissioner to California with instructions. But what were those instructions? Simply to recommend to the people of California to form a constitution for themselves. This is the amount of those instructions, sir; and in doing that, he not only did his duty to the country, but at the same time complied with the express wishes of many gentlemen in this Senate who are now opposing his conduct. Why, at the last session of Congress, it was proposed by gentlemen from the South to do the very thing which the President in his good sense recommended to the people of California to do. They went further, for they were willing at that time to put this question, with all its influences and responsibilities, under the sole control of the Executive. The President has merely carried out the idea of Congress itself, in saying to the people of California, it is the desire of Congress, it is my desire, and it is the desire of the country, that you adopt a constitution for yourselves, and send it here to be submitted to Congress. But it is said that the people who formed this constitution had no authority of law to do so. There is no doubt, sir, that this action of the people of California was without any previous law passed by Congress authorizing a Convention to be held; but they acted for themselves, trusting that Congress would, as has been done in similar cases, sanction their proceedings.

Mr. Borland. Will the Senator allow me to ask him a question. Do I understand the Senator to take the position that, inasmuch as a proposition was made here during the last Congress to exercise the power of Congress to authorize the President of the United States to establish a Territorial Government in California, it follows that, inasmuch as Congress refused to exercise that power, that the President, after the adjournment of Congress, had the constitutional power to authorize California to establish a State Government? Does the Senator mean to be thus understood?

Mr. Miller. No, sir. I have not said that the President had any constitutional power to authorize California to form a State Government, nor has he done any such thing. I said that the President, in his advice to the people of California to form a constitution, was carrying out the idea of gentlemen of the South, as expressed here during the debate upon the bill referred to by the Senator from Arkansas. The instructions to the Commissioner were not to give power to the people of California to form a constitution, but to say to them, if you form a constitution and send it here, I will recommend to Congress to admit you into the Union. That was all, sir.

But, sir, it is said that this proceeding on the part of California is without precedent, and that, if we admit her as a State now, it will be contrary to all former action on the part of this Government. If California be now admitted by Congress, she will be admitted under the general power given to Congress to admit new States. I look, sir, upon the application now presented to us as a petition on the part of the people of California, to be admitted into the Union as a new State, under the constitution which they present here. This I consider to be the nature of her application, that, instead of applying for a Territorial Government, they ask us, under that clause of the Constitution au-

thorizing Congress to admit new States, to be admitted at once into the Union. There is also an objection raised that there is no precedent for a case like this. I remark, in the first place, that the case of California is, in some respects, an entirely new one. She has not grown up gradually like the old Territories this side of the Rocky Mountains, to which our people have been migrating year after year, for agricultural purposes, until at length their population has become sufficiently large to justify the organization of Territorial Governments. No, sir, California has sprung into existence at once, by a sudden and large emigration of our people from the old States to the shores of the Pacific. A case of the kind has perhaps never occurred before in the history of any Government. When California was ceded to the United States about two years since, it contained but few inhabitants, not sufficient even to form a Territorial Government. But, sir, the scene is changed. Allured by her golden charms, California now embraces within her territory a hundred thousand men. You have now on the shores of the Pacific a city containing twenty-five thousand inhabitants; and you have accounts every day of hundreds and thousands going there for the purpose of engaging in all the schemes of enterprise and commerce which such a country presents to the adventurous spirit of our people. You have in fact there—whether organized or not—a State. You have a community there who have passed beyond the pupilage of your Territorial Governments. They come here, and ask—what? Not to give them a Territorial Government. No, sir, they say that there is a sufficient population there to authorize at once the establishment of a State Government; and it is all idle for us to say you must go back and pass through all the forms of a Territorial Government before you can be admitted into the Union.

But with regard to the precedent. I think we have a precedent that will fully justify the admission of California as a State. How, I ask, did Texas come into this Union? She was brought in under that power in the Constitution authorizing Congress to admit new States. Her State Constitution was not formed under and by virtue of any law of the United States. We passed a resolution stating that, upon her presenting a constitution here, we would admit her into the Union as a new State. That constitution was formed by the people of Texas, who were all aliens, not one of them a citizen of the United States at the time of its formation. It was formed under the authority of her own laws, she being at the time a foreign nation; and all Congress did when she presented her constitution was to judge whether it complied with the requisites demanded by our national Constitution. Now, sir, with this precedent of Texas before us, of what consequence is it whether the constitution of California was framed under authority of Congress or not, so long as it is in agreement with the prescribed provisions of our Constitution? Texas had no authority from us to hold a Convention and form a constitution; and if she, being a foreign nation at the time, could make a constitution which we received, certainly the people of California, being citizens of the United States, may form a constitution, and submit it to Congress for admission into the Union.

But, sir, there is another objection made to the admission of California. It is this: that she has, in and by her constitution, excluded slavery—that she is a *free State*. Now, sir, I look upon this as the un-

kindest cut of all. Not admit California because she has in her constitution prohibited slavery! Why, sir, we all agree, as I have stated before, that this exclusion can be made by the people of a Territory when they form a constitution for themselves. The ground heretofore taken by the ultraists of the South is, that, although slavery may not be excluded by act of Congress, nor by the people of a Territory, yet that the people in forming a State constitution have the undoubted right to exclude it. The people of California, so understanding the matter, have settled the question of slavery for themselves. Now, I ask gentlemen who have taken the ground that Congress cannot settle the question of slavery in the Territories, why they wish to refuse California admission? Sir, if upon this objection we refuse their application and reject the constitution of California, the question of slavery or no slavery in California will be again thrown into Congress to be settled here; and the question of slavery at once comes up upon the organization of a Territorial Government. By this course of policy we take this vexed question from the people of California, whom you say have the right to settle it, and bring it here into Congress, where you say we have no right to settle it. Do Senators desire such a result as this? I thank the people of California for settling this question, and thus relieving Congress and the country of so vexatious a subject.

But, Mr. President, is it not apparent that, after all, this is the question between us: whether another free State shall at this time be admitted into the Union? And the real objection to the admission of California is, that it will make a majority of free States in the Senate. This, sir, has been avowed. The honorable Senator from Mississippi, in the debate the other day, called upon the honorable Senator from Kentucky, appealed to him, and said, will you admit these two Senators, and thus give a majority to the free States against the slave States? Now, sir, are we to settle this question upon any consideration of this kind? Is California to be kept out of the Union until another slave State is ready to come in alongside of her? Is it to be a race between the slave States and the free States of this Union? If so, sir, the race is won already. California is already at the goal, and our other Territories are rapidly approaching it. They will soon be filled up by the freemen of this country, who will control their destiny. They will be settled so speedily that it will be impossible for you to direct the course which the inhabitants of those Territories will spontaneously take in relation to their domestic institutions.

Sir, this institution of slavrey moves too slow to compete with the free population which, like a mighty torrent, is now rushing westward. I do not state this for the purpose of boasting of the superior enterprise of the free States over the slave States. I state the fact, the notorious fact, that the emigration of the free population of this country into our new Territories outruns and outnumbers the emigration from the slave States, who wait to carry with them the cumbrous institutions of slavery. Free men, with free labor, will take possession of these Territories, and they will come here and demand of us to be admitted into the Union, under such constitution as they may adopt for themselves. Why, sir, look at California. Was not California as much open to the population of the slave States as she was to the population of the free States? Had not the people of the Southern States the same opportu-

nity of settling California and controlling her destiny as the people of the Northern States? Yes, sir, they had the additional advantage of a shorter and more direct mode of communication with that country. But, sir, what has been the result? California presented a golden prize—something to call out the bold and adventurous spirit of our people. And our young men from every part of this Confederacy, South and North, forsaking home, kindred, and friends, and leaving far behind them the institution of slavery, and all such local matters, rushed to the shores of the Pacific, settled California, and formed a government for themselves. And while we were here disputing the question whether slavery should go there or not, California was occupied by a people who prefer free labor to the institution of slavery. The fact was, that slavery was rather too slow a team to compete in such an active enterprise as this. In the settlement of the question of slavery by the people of California the slave States were fully represented. I will now proceed to show the fact.

Without concluding, Mr. M. gave way for an adjournment.

MONDAY, FEBRUARY 25, 1850.

The same resolutions being under consideration—

Mr. MILLER said: Mr. President, I regret that I am under the necessity of taxing the patience and consuming the time of the Senate for another day on this subject. My apology must be found in the magnitude of the question, and also in the fact that it is very seldom I trespass on the time and patience of the Senate.

When the Senate adjourned on Thursday I was endeavoring to show that the constitution formed by the people of California was so formed by the free and spontaneous action of the people of the Territory, and more particularly that that clause of the constitution which prohibits slavery was the solemn and unbiased judgment of the people of California, coming from all sections of the Union—North and South. I am satisfied that if the people of the South can be convinced that this agitating question of slavery has been fairly determined by the people of California themselves, they will cheerfully submit to that determination. And if it be true that citizens of the United States now in California, representing all sections of the United States—the South as well as the North—have come to the solemn conclusion that the institution of slavery ought not to exist there, and have excluded it by fundamental law, it settles that question forever, and leaves nothing for Congress to dispute about, or to compromise, relative to slavery in California. I am anxious, therefore, to place the fact—the exclusion of slavery from California by the free and solemn judgment of her people—beyond all doubt, by presenting a few more facts and arguments in support of the position.

In the first place, at the time of the formation of the constitution of California, as I am informed by gentlemen from thence, upon whose judgment I can rely, there were over 80,000 men in the Territory—citizens of the United States who had emigrated from the several States of the Union. Of these 80,000 men, fifty thousand were from the Northern or non-slaveholding States, and thirty thousand from the Southern or slave States. In October last the delegates elected by these people met in convention for the purpose of forming a constitution. That conven-

tion was composed of forty-eight members; fifteen of them were from the slave State, fourteen of them were natives of California, and nineteen of them were from the free States—thus showing that in this convention the South had a full and fair representation; and the vote on the clause prohibiting slavery, I understand, was a unanimous one. When the constitution was submitted to the people of California, there were 13,000 votes polled in favor of it, and 811 votes against it; but, what is remarkable, sir, the votes against the constitution from those inhabiting that portion of the Territory below the line of 36° 30′ were only eighteen in number. I am also informed that great care was taken that no persons should be permitted to vote for delegates to the convention but known citizens of the United States. I mean by this, citizens who emigrated from the old States, and such persons, natives of California, who were made citizens by the treaty. The Legislature lately elected is composed of fifty-two members—sixteen Senators and thirty-six Representatives. In the Senate the slave States are represented by five members, and in the House the same States are represented by seventeen members—making in all twenty-two from the slave States. In the Senate there are two native Californians, and in the House one, and from all the other States, Northern and Western, there are twenty-seven members. Of the State officers there are six—Governor, Secretary of State, Comptroller, Treasurer, Attorney General, and Surveyor General; and of these, five are filled by gentlemen from the slaveholding States, thus leaving only one, the Surveyor General, (who, I am told, has nothing to do,) who is from a Northern State.

This statement of facts must satisfy every one that there has been a fair representation there in the formation of the constitution and State Government from every portion of this Union, and that the clause in the constitution prohibiting slavery expresses the opinion not merely of members coming from one section, but from all parts and portions of this Union. But, notwithstanding these facts, it has been charged here, and throughout the country, in the public press, that the constitution was procured by connivance and fraud. It has even been said in this debate that the President, through the military power in California, coerced the people into forming this constitution. The military power coercing the people of California! Why, sir, the difficulty there has been to keep the country from controlling the military. There is a power there stronger than the sword itself, as gold generally proves too much for steel. But these general charges have been reduced to specifications by a Senator on this floor—I refer to the Senator from Louisiana, (Mr. Downs)—who stated in his place the other day that the President of the United States had sent a Commissioner there for the purpose of urging upon the people of California the insertion in their constitution of this clause prohibiting slavery; that private instructions had been given to the Commissioner to that purport; and that these instructions had been fraudulently concealed from the Senate and the country. Sir, these are grave charges, and yet the Senator said he had no positive evidence of their truth, but had formed his judgment from the circumstances of the case. What were the circumstances upon which that Senator founded these charges? He presents to the Senate the written instructions of the Secretary of State, and because that officer in those instructions three times directed the Commissioner not to inter-

fere with the subject, the Senator infers from that extraordinary caution that he really was directed to interfere! Sir, it is said that in composition two negatives make an affirmative, but I never before heard it assumed as a principle of the law of evidence, that if a man denies a charge three times, that he therefore admits it to be true, or that a direct prohibition amounts to a command. Now, I am not here to defend the Secretary of State; he needs none at my hands. But, sir, it is due to the official character of that distinguished gentleman, it is due to the honor of the country, that charges of this grave kind should be at once proved, or at once withdrawn. The Senator expressed a desire to have a committee raised on this subject, and to bring the Secretary and the Commissioner before it. If that Senator is in possession of any evidence that will support the charge, or the suspicion of it, I trust he will forthwith lay it before a committee for investigation. But as the Senator has no evidence to support the charge, except the circumstances which he has detailed, I think I may venture upon the difficult task of proving a negative, and showing that this charge is utterly groundless.

In the first place, we have all the instructions given to the Commissioner, and they expressly negative, three times repeated, this charge of interference. I will read so much of these instructions as relate to this point:

"You are fully possessed of the President's views, and can with propriety suggest to the people of California the adoption of measures best calculated to give them effect. *These measures must, of course, originate solely with themselves.* Assure them of the sincere desire of the Executive of the United States to protect and defend them in the formation of any Government, republican in its character, hereafter to be submitted to Congress, *which shall be the result of their own deliberate choice*; *but let it be at the same time distinctly understood by them, that the plan of such a Government must originate with themselves, and without the interference of the Executive.*"

If this be interference and usurpation on the part of the President and the Secretary of State, then the former Administration was guilty of the same usurpation. Yes, sir, the Senator himself, as I shall show, is guilty of the same interference and usurpation. First, with regard to the interference of the late Administration: we have the fact now established, that the proclamation issued by Gen. Riley, recommending the people of California to form a State constitution, was issued under the direction of Mr. Polk, the late President, and that it was published by Mr. Riley, before the Commissioner sent by the present Administration had arrived in the country, and in fact even before the people of California knew of General Taylor's election—certainly before they could have heard of his inauguration.

Mr. Downs. The Senator will pardon me for interrupting him, but is he authorized to say that Gen. Riley published this proclamation calling the Convention before he knew what were the wishes of the Administration on the subject? I do not mean before he got the official orders, but whether Gen. Riley did not know the wishes of the President before he did issue his proclamation?

Mr. Miller. I will give the Senator all the information I have on the subject. The proclamation of Gen. Riley was issued on the 3d of June, and I know of no communication between Gen. Riley and the present Administration prior to that time. The Commissioner, Mr. King, left here a short time after the inauguration of President Taylor, and did not arrive at San Francisco until the 4th of June. Gen. Riley

was then at Monterey, 130 miles distant from San Francisco, and had on the 3d of June, the day before the arrival of Mr. King, and without any communication with him, issued his proclamation, without, so far as I have heard, any communication with the present Executive.

Mr. Downs. The Senator will pardon me for again interrupting him. I am aware that the Commissioner states that the proclamation was issued the day before his arrival at San Francisco, but he does not say, and therefore I ask the question of the Senator, who seems to be familiar with this subject, for him to answer, whether Gen. Riley did not on the 3d of June, know the wishes of Gen. Taylor, and issue his proclamation in accordance therewith ?

Mr. Miller. I know nothing that would warrant such an inference. and as there were no telegraph lines to California, I presume that Gen. Riley was not acquainted with the wishes of General Taylor upon this subject.

Mr. Downs. But there were steamboats and other modes of communication.

Mr. Miller. I understand that the steamer which carried Mr. King there was the first steamer which arrived in California after the adjournment of Congress, and there is no reason to suppose that Gen. Riley had any secret instructions from this Government to do what the Senator charges, or any instructions whatever. I certainly know of none. But if it be evidence of usurpation in the Executive or the Secretary of State to recommend the people of California to form a constitution, the Senator himself is guilty of the same crime. At the last session of Congress, the honorable Senator from Louisiana presented the following resolution :

" *Resolved*, That it is competent and expedient, and not inconsistent with the practice of the Government in some cases, to admit California, or such portion of it as Congress may deem proper, immediately into the Union, on an equal footting with the other States ; and that the Committee on ——— be instructed to report a bill for that purpose, for that portion of California which lies west of the summit of the Sierra Nevada mountains."

This resolution of the honorable Senator recommends in substance the very thing which the President recommended, and which the people of California have carried out. I believe it embraces the very territory they have included in their constitution.

Mr. Downs. I wish the Senator, instead of quoting from my resolution, which is a mere assertion of principle, would quote from the bill I reported from the minority of the Judicial Committee. He would there find that, although I did report a bill for the admission of California, I provided for a system of suffrage, and other important and essential details.

Mr. Miller. I had no reference to the bill which the Senator introduced after his resolution ; neither do I think the people of California ever heard of his bill ; but his resolution went before the public, and I have no doubt had some effect in inducing the people of California to form a constitution, and present it here ; and they will be much surprised to hear that the Senator now opposes their admission into the Union. But, again, in his speech the other day, the Senator said :

" I believe it is a fact that some members of Congress wrote to their friends in California on this subject. I myself said to my friends going there that if the people themselves should meet and make a constitution, I would agree to it. But it is because the people were not permitted to act spontaneously, but that others interfered, that I am now opposed to its admission."

So that the honorable Senator has twice recommended to the people of California to form a constitution; and I think it likely, that if I could examine his speech further, I should find that he had said it three times. Thus he stands precisely where the Secretary of State stands; he has recommended the thing three times; and would it be fair for me to say that, because he has done so, therefore he was opposed to it?

But are not the circumstances about the case conclusive evidence that neither the President nor the Secretary of State interfered to bring about the prohibition of slavery in California? The circumstances all looked the other way when it was first announced that Mr. King had been sent to California; the Abolition and Free-soil party were horrified at the very idea. They said here was a Southern President and a Southern Secretary of State sending a commissioner—a slave-holder from Georgia—into California, to regulate this matter of slavery; and I confess that there was some ground for their suspicions. Under such circumstances, was it not right for the Secretary of State to use every precaution to guard himself and the Administration against all suspicion on this point? But how preposterous it is for the South to charge that a Southern President, with a majority of his Cabinet from slave States, sent to California a commissioner, an owner of three hundred slaves in Georgia, for the purpose of inducing the people of California to prohibit slavery in their constitution. The idea is absurd!

But, sir, there was no interference from any quarter whatever, and we have the letter of the commissioner, published this morning under his own name, stating that there were no instructions given to him other than are contained in the published documents before us, and he, with emphasis, pronounces the whole charge to be utterly without any foundation in truth.

But, Mr. President, I pass from these to other views of the subject. I ask Senators to look at the great and notorious facts and circumstances now surrounding California; and I put it to them to say whether she does not now contain all the elements which constitute a State? Look at her one hundred thousand inhabitants; look at the thousands who, even while I am speaking, are going there from every State and county of the Union. They have built up a commercial city there, now containing about twenty-five thousand inhabitants—a city in which was collected, in eighteen days in November last, $113,000 of public revenue. They have already paid into the national treasury, $2,000,000, and in the coming year it is estimated that it will amount to the sum of $3,000,000; more than is collected in the port of Philadelphia, or in any port south of this, except that of New Orleans. The city of San Francisco, as I am informed, collected for city purposes, during the past year by taxes imposed on personal property, the sum of $250,000. This rapid accumulation of population and of commercial wealth must command the attention of this Government, as it does now attract the gaze of the world. Even the people of China, heretofore confining their commerce to their own narrow seas, have boldly crossed the Pacific, and are there with their ships. The people, or rather the half savages of the Pacific Islands, have become navigators of the ocean in search of California gold. Ships of every commercial nation

in Europe are there for trade and commerce. Can it be supposed that such a people, with such a territory, embracing all the great elements which constitute a free State, will long remain under a territorial form of government, while they are taxed annually by your revenue laws from two to three million dollars? No, sir; they will demand representation in Congress, and I think that they are entitled to it.

Again, sir, this is the first free constitution that ever was formed upon the Pacific. California will be the first free State ever established on the borders of that broad ocean; and, sir, shall it be said that when that constitution is presented here we reject it, because it contains within it a prohibition against the institution of slavery? No, sir; no. I believe that there is not a man in this Senate who, if he was now in California, and acting on his own responsibility, would strike from that constitution this prohibition. I am, therefore, for admitting California, and for admitting her at once. She is not to be connected with any compromise, for there is nothing there to compromise. She has passed beyond your territorial pupilage. You cannot dwarf her now into a Territory. She is full grown, and is entitled to all the rights and privileges of a State.

An important question has arisen in this debate, upon which I desire to say a few words. It is this: *Did slavery exist*, in fact and by law, in these Mexican Territories at *the time they were acquired* by us? I consider it a very important question, because if slavery did exist there legally, I am not for disturbing any rights legally attached to that kind of property.

That slavery was abolished by law in Mexico long before we acquired these Territories I entertain no doubt, and that it does not now exist, in fact, in Calfifornia or in New Mexico, is well ascertained. But, as the contrary has been insisted upon by Senators in the course of this debate, I have, with the aid of a friend acquainted with the Mexican laws upon this subject, procured what I believe to be a true account of the laws and proceedings of the Mexican Government upon the subject of slavery. I will read them:

"On the 26th December, 1826, a treaty was concluded in London between his Britannic Majesty and Mexico, containing this article:

"Article 15. The Government of Mexico engages to co-operate with his Britannic Majesty for the total abolition of the slave trade, and to prohibit all persons inhabiting within the territories of Mexico, in the most effectual manner, from taking any slave in such trade."—*Vol.* 4 *page* 93, *Mexican Laws.*

"A treaty was concluded between Mexico and the King of Hanover, into which was incorporated the preceding article in the treaty with England."—*Vol.* 5, *page* 69, *Mexican Laws.*

"On the 25th August, 1829, the Mexican Congress invested the Executive, Guerrero, with extraordinary powers."—*Vol.* 5, *page* 55, *Mexican Laws.*

"By virtue of these granted powers, President Guerrero issued a decree, dated September 15, 1829, as follows:

"The President of the United States of Mexico to the inhabitants of the Republic:

"Know ye, That desiring to distinguish the anniversary of our independence by an act of justice and national beneficence that may redound to the benefit and support of that inappreciable blessing, that may more and more secure the public tranquility, that may promote the grandeur of the Republic, and that may restore or reinstate an unfortunate portion of its inhabitants in those sacred rights which nature gave them, &c.—

"I have deemed it proper to decree:

"1st. Slavery is abolished from the Republic.

"2d. All those who until this day have been considered as slaves are consequently free."—*Vol.* 5, *page* 149, *Mexican Laws.*

"On the 15th of April, 1831, after the deposition of President Guerrero, the Mexican Congress revised the measures and acts dictated by him, and amongst other things resolved as follows, viz:

"Article 9. All laws, decrees, regulations, orders, and provisions, which, in virtue of the aforesaid extraordinary powers, were issued by the Executive, that by their nature appertain to the legislative power of the Government, shall be submitted to the examination of the General Congress, and henceforth shall be of no value or effect until they are revised and approved by the Chambers of Congress."

By this resolution the further action of the decree of Guerrero abolishing slavery was suspended, but not repealed. It had no retro-active effect, and the slaves who were manumitted retained their liberty. This revision of the acts of Guerrero became imperative, and, on the 5th day of April, 1837, the Mexican Congress passed the following act:

"An Act abolishing slavery in the Republic.

"Art. 1. Slavery, without any exceptions, is, and shall remain, abolished throughout the entire republic.

"Art. 2. The owners of slaves manumitted by this act, or by the decree of 15th September, 1829, (Guerrero's decree,) shall be indemnified," &c.

Thus the decree of Guerrero which had been suspended was re-enacted and made perpetual.

In addition, I am assured that the Constitution of Mexico, framed in 1843, contains this fundamental provision, that slavery is forever abolished in the republic of Mexico. So that, both in law and in fact, slavery is abolished in these Territories. If slavery has not been abolished in these Mexican Territories the people of this country have been grossly misinformed and deceived.

At the time of the annexation of Texas, one point taken by the free States against the consummation of that measure was, that it was but an entering wedge into Mexico, and that as one object for the annexation of Texas was the extension of slavery, it would be followed by the conquest of other Mexican Territories for the same purpose.

Mr. Foote. Will my friend allow me to ask a question?

Mr. Miller. Certainly.

Mr. Foote. Does the Senator see any good reason for advocating the application of the Wilmot proviso, in any shape or form, in relation to Territories where he is convinced slavery is already abolished by law?

Mr. Miller. I will answer the Senator on this point before I get through with my speech. To meet this objection of the North, and to quiet our fears, it was represented to the people of the North by leading and influential men, who favored the annexation of Texas, that slavery was abolished throughout all the Mexican territories. It was so stated, sir, in a celebrated letter, published by the distinguished gentleman, then a Senator from Mississippi, and afterwards at the head of the Treasury Department—I refer to the honorable Robert J. Walker. This letter was published in the year 1844. I will read from the letter a few paragraphs:

"Again, then, the question is asked, Is slavery never to disappear from the Union? This is a startling and momentous question; but the answer is easy, and the proof is clear; *it will certainly disappear if Texas is reannexed to the Union;* not by abolition, but against and in spite of all its phrenzy, slowly and gradually, by diffusion, as it has already thus nearly receded from several of the more northern of the slaveholding States, and as it will continue thus more rapidly to recede by the reannexation of Texas, and finally, in the distant future, without a shock, without abolition, without a convulsion, disappear into and through Texas, into Mexico and Central and Southern America. Thus, that same overruling Providence that watched over the landing of the emigrants and pilgrims at Jamestown and Plymouth; that gave us the victory in our struggle for independence; that guided by His inspiration the framers of our wonderful constitution; that has thus far preserved this great Union from dangers so many and imminent, and is now shielding it from abolition, its most dangerous and internal foe—will open Texas as a safety-

valve, into and through which slavery will slowly and gradually recede, and finally disappear into the boundless regions of Mexico and Central and Southern America. *'Beyond the Del Norte, slavery will not pass; not only because it is forbidden by law,* but because the colored races there preponderate in the ratio of ten to one over the whites; and holding, as they do, the Government and most of the offices in their own possession, they will never permit the enslavement of any portion of the colored race, which makes and executes the laws of the country.

"The outlet for our negro race, through this vast region, can never be opened but by the re-annexation of Texas; but in that event, there, in that extensive country, bordering upon our negro population, and four times greater in area than the whole Union, with a sparse population of but three to the square mile, where nine-tenths of the population is of the colored races, there, upon that fertile soil, and in that delicious climate, so admirably adapted to the negro race, as all experience has now clearly proved, the *free black would find a home.* There, also, as slaves, in the lapse of time, from the density of population and other causes, are emancipated, they will disappear from time to time west of the Del Norte, and beyond the limits of the Union, among a race of their own color; will be diffused throughout this vast region, where they will not be a degraded caste, and where, as to climate, and social and moral condition, and all the hopes and comforts of life, they can occupy, among equals, a position they can never attain in any part of this Union."

"That slavery can never pass beyond the Rio del Norte." Beyond that line the slave would be free; the equal among equals! Alas! poor slaves, your master has passed the Del Norte before you. He has gone even to the Pacific, and now seeks to extend your bondage there. Sir, I believe that the honorable gentleman who wrote that letter honestly entertained those opinions at the time, and he still entertains the opinion that slavery does not by law exist in Mexico, and that it can never go there unless it be carried there by the laws of the United States.

Mr. Foote. Will the Senator allow me to ask if he is personally authorized to make the assertion that such are his opinions?

Mr. Miller. I can only say that I have gathered the opinions of the gentleman from his letter, and from conversations that I have had with him. I have understood him to declare that slavery did not exist by law in Mexico.

Mr. Foote. If that be the case, I have not a word further to say.

Mr. Miller. I apprehend that there is no secret about it. I do not suppose that he has any desire to conceal his opinions; but I do not wish it to be understood that I have any authority from that gentleman to state here what his opinions are upon this subject.

Mr. Foote. He has appeared to be unwilling for some time past to say any thing on the subject. I was anxious therefore to know whether the Senator from New Jersey was authorized to state what are his opinions.

Mr. Miller. In the debate which took place in the Senate in 1845, upon the admission of Texas, an honorable gentleman, then representing the state of Pennsylvania, since Secretary of State, followed in the same strain, and for the purpose of satisfying his own constituents and the people of the North that the admission of Texas was to be the last hope for slavery on this continent, he declared in his place here the sentiments which I am now about to read:

"I am not friendly to slavery in the abstract; and I look to Texas as the probable means of relieving the Union from slavery at some distant day.

"The counsels of the Almighty are never rash. A thousand years are to him but as one day. The past, the present, and the future are all before him. He operates great changes in the moral world by gradual means. May not the admission of Texas gradually draw our slave population from the centre to the southern extremity of our Union, and eventually may they not pass the Del Norte and be incorporated with a race where *the distinctions of color are unknown, and where they may enjoy their freedom* without that taint of degradation which they must ever experience among the Anglo-American race?"

This, sir, was the opinion expressed at the time by leading gentlemen of that Democratic party of the North and the South.

Mr. BERRIEN. That was not the received opinion by the North. They did not believe what they said.

Mr. MILLER. The honorable Senator from Georgia says that this opinion was not received, because they did not believe what they said. I cannot go so far as to say that. These two gentlemen had great influence upon the public mind, and I am of opinion what they said had some effect; and I am satisfied that the letter of Mr. Walker did more to reconcile the public mind of his own party at the North to the annexation of Texas than any other document published or speeches made on that occasion. But, sir, the question that now presents itself is, whether we shall reëstablish in New Mexico and California slavery? It is now abolished there.

Mr. FOOTE. Has the Senator ever heard any Southern Senator speak of the reëstablishment of slavery in California, or ask for its establishment by law, under the Constitution of the United States?

Mr. MILLER. I know its reëstablishment has not been expressly asked for from Congress, but that is the point made against the California constitution.

Mr. FOOTE. There has been something said on the subject certainly in the newspapers of the day.

Mr. MILLER. The objection to the constitution of California is founded on the fact that the people there, by a fundamental law, have declared that slavery shall not be established there.

Mr. BERRIEN. Will the Senator allow me to interrupt him for a moment? I really cannot permit a misrepresentation of this kind, though unintentional, I am sure, to pass by without notice. If the Senator's proposition be true, that slavery does not exist in California, and if slavery cannot be carried there by the legislation of Congress, how can slavery be reëstablished in that territory? Does not the Senator unintentionally misrepresent the South when he says that the objection to the admission of California arises from the fact of the provision in her constitution inhibiting slavery? Is it not within the knowledge of the Senator that, before her constitution was formed, on a reference of the bill for the admission of California to the Judiciary Committee, a report was made, in which a majority of the committee concurred, adverse to the admission of California into the Union, upon a ground which, in their judgment, still exists? I desire, having been called on, as I suppose, to correct a misrepresentation that is calculated to produce a false impression among the people of the United States, especially at this moment, to say for myself that, whether that clause were in or out of the constitution, I should feel equally bound to object to the admission of California into the Union.

Mr. FOOTE. The gentleman has always been opposed to the admission of California, but now that slavery has been abolished by her constitution, he has become one of the warmest advocates of her admission. I have never heard a single Southern man at any time say that he objected to her admission on the ground that she had abolished slavery. Some special circumstances connected with the organization of the Territory would certainly have made the admission of California objectionable to some Southern representatives—some

circumstances connected with the boundary, which is supposed to be too ample.

Mr. Miller. I was contending, sir, in the first place, that slavery was by law abolished in California; that it never could be reëstablished there, unless it were done by the Constitution and laws of this Union. Those were my premises. Now honorable Senators say that I misrepresent them when I say that the South objects to the admission of California with her present constitution because she inhibits slavery. I understood the Senator from Georgia the other day to contend that the laws abrogating slavery in California are void; that the Constitution of the United States by its own power carried slavery into those Territories; that by reason of the equality existing between the States, we could not by law prohibit them from carrying slavery into California. Did I understand the Senator correctly?

Mr. Berrien. Most certainly, sir; that does not touch the position taken by the honorable Senator. It is, that the South is asking from Congress the reëstablishmsnt of slavery in the Territory of California. The South asks no such thing. If they have constitutional rights, the South asks the privilege of having the question determined by the judicial arbiter of the Constitution. The real question in controversy between us is, whether this thing does or does not exist in California, and whether we have the right to extend the institution there? It has been denied on the part of the North, and we ask the privilege of having the question referred to the supreme judicial tribunal here, unembarrassed by the legislation of Congress.

Mr. Miller. I have not said that the people of the South desire a law to establish slavery in California; but I say, sir, that their position, as avowed here, is this: that, notwithstanding slavery, by law, and in fact, is abolished in California and New Mexico, they contend that the Constitution of the United States carries it there, and reëstablishes it as an institution, and that we cannot interfere in relation to the subject.

Mr. Berrien. What do you contend?

Mr. Miller. That it does not carry it there. That is the point between us. I contend that the South, by their construction of the Constitution, which I think a false one, seek to reëstablish slavery in California. The North denies this construction. It is a difference of opinion between us.

Mr. Berrien. We ask a reference to the judicial tribunal.

Mr. Miller. Then, sir, I say this, that when the question is presented to me on the establishment of Territorial Governments in those Territories, whether slavery is carried into the Territory under and by virtue of the Constitution, and reëstablished there under our Government or not, I can have but one opinion about it. I say it has no right to go there. And I go further, sir; knowing the history of our Territories, and the manner in which slavery first got upon this continent, I say that when we are about to establish Territorial Governments for Territories where slavery does not exist, I feel it my duty to vote in favor of a law prohibiting its introduction there; and in doing so, sir, I violate no rights, I interfere with no Southern man's property. In adopting this course, it is not necessary for me to enter into the question whether slavery is a sin or not, and to declaim against its moral effects.

I vote to prohibit it, simply because I believe that in the Territories of California and New Mexico, the institution of slavery would be a social and a political evil. The honorable Senator from Georgia mistakes me altogether if he supposes that I wish to create an additional excitement upon that subject, or that I could for a moment designedly misrepresent the views of the South or of the North for the purpose of throwing any difficulty in the way of the adjustment of this matter. All I desire to do upon these great and exciting questions is, to state and to maintain my own opinions with calmness and firmness, and to act upon them solely with reference to the common interests of the country.

Before we are prepared to adjust the difficulties which now surround this subject of slavery, it will be well to inquire who and what has caused this great excitement, which every man who has the good of his country at heart is anxious should be allayed? Sir, I believe the main cause will be found in agitation, agitation! North and South in Congress and out of it. Stripped of the excitement and of the exaggerations of these agitations, there is no real difficulty in settling the questions which now excite the public mind.

I have already shown that the two first aggressions complained of—fugitive slaves and slavery in the District—are really unfounded in fact, leaving but a single difficulty, that relating to slavery in the Territories, for future adjustment. Now, sir, what caused the excitement relative to the extension of slavery? Who and what first brought this subject before Congress? Why, sir, it was brought here by the annexation of Texas; that was the first time when the question of extending slavery was distinctly brought before Congress. The distinguished Senator who was then at the head of the State Department, Mr. Calhoun, advocated the annexation of Texas upon the ground that it was to give security to slave property at home, and to prevent future aggressions upon it from abroad—and asked this Government to lend its aid, even at the risk of war, to acquire Texas, in order to extend the area of slavery, and to give greater security to this kind of property in the slave States. We, that is the Whig portion of the North, opposed this measure, and we told you at the time that it would lead to war for the acquisition of more territory, which in the end would produce the very excitement by which we are now surrounded. This was the beginning of the agitations about slavery. The South are principally to blame for this. We have also agitators at the North. In the first place we have what are called liberty men—men who conscientiously believe—at least they say so—that slavery is such an enormous evil that neither law nor the Constitution ought to restrain them from destroying it at once; and if they cannot destroy it by law under the Constitution, they are desirous to abolish the Constitution itself in order to get at slavery within the States. This party is so small and so ultra that no one need be alarmed at their name. Then comes what is called the abolition party, who seek to bring about the abolition of slavery, not only in the Territories but in the States, by what they call moral suasion. They talk about the evils of slavery, preach about it, proclaim it at town meetings, and at mass meetings about the time of elections. But, sir, they are perfectly harmless against the laws of your State and against the Constitution, which stands between your property and their agitations. But there is another party at the North more dangerous, known

latterly by the name of the Free Soil party; which is founded upon sectional considerations. A party that is built up in the free States in opposition to the slave States, who denounce every man who runs for office from the slave States. Sir, a party of this kind, if successful, might, in the end, divide this Union; because if either section of the country undertake to draw a geographical line and say that all on one side of that line shall be driven from office, and have the majority to carry out their principles, then indeed will all the official, political, and social relations which bind us together as one people be broken asunder. But we need not be alarmed about the success of such a party. It showed its full strength and influence at the last election. What said the great North? I speak more particularly of the Whig portion of it. That party nominated a slaveholder for the office of President of the United States. It was known that these difficulties existed in regard to the subject of slavery, but we did not forsake a national party and become a sectional free-soil party; neither did the Democratic party do so; no, sir, except in one or two States. And the free States of this Union elected a Southern slaveholder President of the United States. Surely the Southern States ought to be satisfied with such a manifestation of good faith on the part of the North, that there is no disposition there to get up a sectional party for the purpose of breaking down the State rights of the South. You have also your fanatics and your sectional party at the South—men who go for the Divine right of slavery—men who go for proscribing every man who does not subscribe to their opinions about the constitutional rights of slavery——

Mr. Foote. But they are not aggressive, as they are at the North.

Mr. Miller. How are they aggressive on the part of the North? With what rights have we ever interfered? Has the Wilmot proviso ever deprived the Southern States of a single negro? Has a slave ever lost value by it? Has a single State right been interfered with, by means of that proviso? Has there been an acre of slave territory taken from you by any aggression of the North? Not one, sir; it is all needless alarm.

Mr. Foote. The Senator has heretofore voted with the Free-Soilers. I am happy to see that he is converted.

Mr. Miller. Will the honorable Senator tell me when and where? I have, it is true, voted for the Wilmot proviso to Territories free at the time, and will do so again, if necessary. If that makes me a Free-Soiler, I am one.

Mr. Foote. The Senator was not willing to submit the question to the judicial tribunals of the country.

Mr. Miller. The honorable Senator is mistaken again. I never refused to submit the question to the decision of the Supreme Court.

Mr. Foote. Did not the Senator vote against the compromise bill of last year?

Mr. Miller. I voted with other reasons against it; because I believed that that compromise would never settle the question by means of the courts; and I was supported in this opinion by the opinions of gentlemen of the South.

Mr. Berrien. Who were they?

Mr. Miller. They were members of the House of Representatives.

Mr. Berrien. The bill of the House would not bring the question before the judiciary.

Mr. MILLER. I do not think I am mistaken in relation to the purport of some speeches made there. That is immaterial, however; I state my own convictions. But, sir, I am very sorry that I should say any thing here to excite Southern gentlemen on this point, but I mean to express my own opinion honestly and firmly.

It is not to be disguised that there is a fierce and sharp contest going on here and in the country; but, sir, stripped of all its exaggerations, it is a mere conflict of opinion between the representatives of the different States with regard to the passage of laws by Congress—the minority contending with the majority and threatening resistance. We have in our short history undergone several conflicts of this nature; but in all of them the Constitution and the laws proved supreme.

The first conflict was in 1794, seven years after the adoption of the Constitution. It arose about the constitutionality of a law of Congress, which it was contended was an aggression on the rights of the people. I refer to the case of the whiskey insurrection in the State of Pennsylvania. There was undoubtedly a good deal of *spirit*, sir, in that movement. The persons engaged in it went so far as to hold meetings and pass rebellious resolutions, and even to provide themselves with arms and ammunition for the purpose of resisting the General Government. Instead of trying and determining, through the supreme tribunal of the country, the constitutionality of the act of Congress of which they complained, they undertook to rectify the matter themselves by forcible resistance. This was the first conflict of the laws and the Constitution with a portion of the people of this country, who resorted to resistance. Gen. Washington, in his proclamation of the 25th September, 1794, thus characterizes that movement:

"And I do, moreover, exhort all individuals, officers, and bodies of men to contemplate with abhorrence the measures leading directly or indirectly to those crimes which produce this resort to military coercion; to check, in their respective spheres, the efforts of misguided or designing men to substitute their misrepresentation in the place of truth, and their discontents in the place of stable government; and to call to mind that, as the people of the United States have been permitted, under the Divine favor, in perfect freedom, after solemn deliberation, and in an enlightened age, to elect their own government, so will their gratitude for this inestimable blessing be best distinguished by firm exertions to maintain the Constitution and the laws."

Again, the Constitution had another conflict in what was called the Burr conspiracy, in which Mr. Jefferson said there were two objects—first, the conquest of Mexico; second, the disseverance of this Union, taking the Alleghany as the dividing line. Again, the Constitution prevailed. Then came the Hartford Convention, complaining of aggressive laws, unconstitutional laws, operating on the Eastern section of the country. Some of the States held conventions, passed resolutions, and sent delegates to represent their sovereignty in this Congress for the redress of grievances. But, again, the power of the Constitution was supreme, and the Union remained. Then came our difficulties with South Carolina, known as the "Nullification war." That State took offence at certain laws passed by Congress, which she contended were unconstitutional, partial, and unjust; that they operated to the advantage of the North, while they were of great detriment to the interests of the South, and she threatened resistance to the laws by force.

In this position assumed by South Carolina, Gen. Jackson, in his message, December 11, 1832, said:

"I consider, then, the power to annul a law of the United States, assumed by one State, *incompatible with the existence of the Union, contradicted expressly by the letter of the Consti-*

tution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed."

Again the Constitution proved itself invincible, and Gen. Jackson but uttered the voice of the American people when he said, "I solemnly proclaim that the Constitution and the laws are supreme, and the *Union indissoluble.*"

Thus ended the four first conflicts that the Constitution has had with a minority, either of persons or States, who have ventured to resist its authority.

Now, sir, I have cited these causes not for the purpose of wounding the pride or the patriotism of any State in the Union, but merely to show that great and alarming difficulties have existed between the Government and certain portions of the people of the United States, and yet that there was always power enough in the Government, and good sense enough with the people, to settle them all without a dissolution of the Union. And I, therefore, entertain the fullest confidence that the difficulties which now threaten us can also be adjusted without any such direful results as have been pourtrayed by some gentlemen, here and elsewhere.

I will now consider the several modes suggested for adjusting the question of slavery. But, before I do so, I wish to call attention to the position which the South has generally maintained. She has always said that non-action is all she asked of the North—hands off—let us alone. Say nothing about slavery in the Territories, and we are satisfied. If the South still maintain this policy of non-action, the whole question is settled by adopting the policy recommended by the President in his late message. He recommends that very policy of non-action by Congress, with regard to forming Territorial Governments for these Mexican Territories, under which alone the question of slavery can be brought before Congress. By adopting this plan, the question of slavery is taken out of Congress and left with the people of the Territory, to be finally prohibited or admitted by them when they come into the Union as States.

Mr. Berrien. I beg leave to interrupt the Senator for a moment. What the people of the South desire is, simply that Congress refrain from legislating on the subject of slavery; they do not ask Congress to refrain from its constitutional duty to organize Territorial Governments. They claim that slavery should not be excluded by any action of Congress from new Territories; but that they may have the privilege, equally with their brethren of the North, of emigrating into those new Territories with their property; and then, when those Territories shall have arrived at the particular stage necessary to their admission into the Union, they can decide for themselves whether slavery shall or shall not be admitted.

Mr. Miller. That is, I know, the position of the Senator from Georgia. But, sir, that is not the point in dispute. There has never been any difficulty with regard to the mere organization of Territorial Governments *as such*; the South has never disputed with us because we did not organize governments; the difficulty is that when we do organize these governments we exclude slavery.

The proposition of the President indicates in my opinion the only practical mode for settling this question. Yet you reject it, and now ask Congress to act upon the question of slavery. Again, the distin-

guished Senator from Kentucky, with that enlarged patriotism that has always governed his political action, and with that bold and self-sacrificing spirit which has always called him out in the hour of his country's peril and difficulty, has given his mind and talent to settle those difficulties. His plan is like that proposed by the President—non-action upon the question of slavery. He proposes action so far as to create Territorial Governments, but non-action with respect to slavery. You also reject this proposition of compromise. Both these propositions of compromise leave the question of slavery open for the people of the Territories to decide ; they may establish it or reject it as they may think proper. Under the operation of this principle of non-action, California comes here and asks admission ; having determined the question of slavery in the negative for herself, and you reject her because she has done so.

Sir, it appears to me that when the South comes to look calmly at the proposition of the President, she will accept it as the true mode of settling this vexed question. If she rejects it, then the question must be settled either by Congress or by the people in the Territories, or by the people when forming a State Government. The President proposes the latter—by the people when they form a State constitution, upon which we all agree. The North has no desire of using the Wilmot proviso as a mere abstraction, as a proposition to insult the South. They have no such feeling as that. The question with them is one of principle, deep and strong. Their object is to guard by all the constitutional means in their power those now free Territories against slavery. If this can be done without the Wilmot proviso, you will never hear of that proviso again.

Mr. President, I entertain no doubt of the settlement of this exciting question here by Congress, without any of those disastrous results occurring which some gentlemen fear. It is not to be denied that there is much excitement in the country. It is said that the South is prepared to resist the action of Congress on this subject, if it shall be adverse to its supposed interests. The press teems with views of that character. It is proclaimed that it would be very difficult to restrain the people of the South if these so-called aggressions of the North are made upon them, and that disunion will be the result. Various plans for bringing it about are proposed. One gentleman in the other House proposes to do it by stopping the supplies of Government. Another gentleman proposes to dissolve the Union by a resolution to be introduced into the House. Others propose to accomplish it by the passage of resolutions by State Legislatures ; and last, not least, the thing is to be done by a Southern Convention at Nashville. We are not informed as to the particular object of this Convention, or what is the proposed result of its deliberations.

I do not believe, sir, that the people of the Southern States are preparing to resist the laws of Congress, or that the Convention at Nashville, if it ever meets, will take measures to peaceably, or by force, to dissolve this Union. I have too much confidence in the patriotism of the people of the South to think that they entertain any such unlawful, and mad design as that. But, sir, if there should be any project of the kind on foot any where, my word for it the Constitution will vindicate itself. That sacred instrument, that charter of our liberties, won by our forefathers through seven long years of blood and of prayers, is not to be resisted with impunity, nor overthrown by a minority of the States of

this Union; and, if under the excitement of the moment there might be found a few reckless enough to seek the destruction of that sacred instrument, yet there would be millions of freemen who would rally to its rescue. Yes, sir, he who aims a mortal blow at the Union—our Alma Mater—will have to strike through the hearts of ten millions of freemen. Sir, there is no danger to the Constitution or to the Union. What would the South gain by a dissolution, or the North either? I do not speak of those dark and bloody scenes which have been described here by some gentlemen as the result of such a disaster—but what will you gain by such dissolution? Can you form a better government than you now enjoy? Are you wiser than your fathers were who formed this Constitution? Can you form a Constitution in this the nineteenth century which will secure the peculiar property which you wish to protect more faithfully than your present Constitution? No, sir! Say what you will about the aggressions of the North, how long would it be before there would be a North to your new Union? How long would it be before you would have fanatics in them as clamorous as those complained of now? How long would it be after the formation of a new Union before Virginia would become a free State, with interests conflicting with those of her more Southern confederates.

And is this, then, any sufficient cause for the dissolution of the Union? Is this conflict of opinions a sufficient reason for breaking up the foundations of our political temple of liberty, scattering its fragments to the four winds of heaven? Are the mere opinions of men to obstruct the movement of a Government so strong and healthy as this Union of thirty independent States, and twenty millions of inhabitants? No, sir. There is to be no dissolution of this Union. Speaking for my own State, New Jersey, we mean to stand by the Union till the last gun is fired. We have stood by it in the darkest days of our history without flinching, and her soil has drank deep of the blood of her noblest sons, shed for constitutional rights. On her territory was fought for and won those great principles of liberty which are embraced in the Constitution, and now secured by the Union. She knows the value of that Constitution; she knows that her soil is consecrated to glory and immortality by those old battle fields where men fought for civil liberty. Yes, sir, New Jersey will maintain the Union under all circumstances. She will stand by the Constitution, slavery or no slavery; slavery in the District or no slavery in the District; slavery in the Territories or no slavery in the Territories. And her people will stand by the Union as they would stand by their own hearthstones, and die in its defence.

The last anniversary of our national independence was celebrated by twenty millions of freemen throughout this broad and happy Union, with patriotic pride and with grateful hearts to Almighty God for innumerable national blessings. The friends of liberty throughout the world joined in that celebration. Long may that glorious day return to warm and cheer the hearts of a free and a united people! May the bright suns of a thousand years rise and shine upon it! But as to that accursed day—the day of the dissolution of this Union—"let darkness seize upon it; let *not* God regard it from above; let the blackness of the day terrify it; let it not be joined with the days of the year; let it not come into the number of the months."

REMARKS

OF

MR. CASS, OF MICHIGAN,

ON THE

DISSOLUTION OF THE UNION,

AND THE

CONSTITUTION OF CALIFORNIA.

IN THE SENATE OF THE UNITED STATES, FEBRUARY 12 AND 20, 1850.

On the former day, upon the presentation of a petition by Mr. HALE, of New Hampshire, asking *the peaceable dissolution of the Union*; and, on the latter day, upon the motion to refer the President's Message, transmitting the *Constitution of California*.

On the presentation of the petition—

Mr. CASS said: Mr. President, No man who attends the discussions in the Senate can fail to perceive the predisposition, which prevails here to push principles to their extremes. If we do not find a massive wall where they must stop, we follow them indefinitely, with as much metaphysical zeal as any of the disciples of the ancient schools of logic. The provision respecting the right of petition is contained in one of the amended articles of the Constitution, which provides that Congress shall pass no law to prevent the people from assembling peaceably and petitioning for redress of grievances. I do not deny that the right thus secured is an important one, but I do not rate it by any means as high as the honorable Senator from Ohio (Mr. CHASE) appears to do. Thanks to the wisdom of our forefathers, and to the spirit of our institutions, the people of this country have a much more efficient remedy than the right of petition for any abuse by the Government, whether apprehended or existing—the right of action; the right to send you home, and me home, and all of us home, and put other and better men in our places, that their wishes may be accomplished. The Government is theirs, and the ballot box is a far better security for its faithful administration, than this humble right of petition. In England, whence the measure is derived, it is the best means the people have for a redress of grievances; and a poor one it is, too, there, as the experience of every day demonstrates. With a hereditary Executive, a hereditary House of Lords, and a House of Commons originally elected for the life of the Sovereign, the right to petition is about all that is left to the people. Why, sir, if we were utterly to refuse to receive petitions in this country, it would produce no other effect than to rouse public indignation and to hurl us from our places. No Legislature in this broad land will ever place any improper limitation upon the exercise of this right. But, sir, there are limitations, which control it, necessarily arising out of the nature of things. You would not receive a petition, couched in insolent or obscene or blasphemous language. Would you receive one asking Congress to declare that there was no God, and to pass a law prohibiting the people of the United States from assembling for the purpose of religious worship? Would you refer such a petition—as the Senator from New York (Mr. SEWARD) proposes to refer this—with grave instructions to report the proofs of the existence of a God, and to add their feeble evidence to the testimony upon that subject which is found equally in the Book of Nature and in the Book of Revelation, and which is with us and around us from the cradle to the grave? Then, sir, if there are limitations to the duty of receiving, if not to the right of presenting petitions, what are they? They should be decent in their language, and the action they ask for should be within the sphere of our constitutional power. This principle the Senator from Massachusetts, (Mr. DAVIS,) in my opinion, laid down the other day with equal truth and force. If I understood his vote, however, it happened to him, as to most of us too often in life, that his doctrine was better than his practice. I think, on a test vote on that occasion, he was among

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those in favor of the introduction of a petition asking what we could not grant. The constitutional object of the right of petition is declared to be the redress of grievances. Instead of a valuable right, an application to Congress to do what it cannot do, reduces it to a farce, and is calculated to bring the right itself into contempt. If we have no power to grant the prayer of the petition, why should such a petition be received? And our time thus profitlessly spent which might be devoted to useful and national purposes. I am not speaking, sir, of a doubtful question—of petitions for measures of doubtful validity, and about which reasonable men may differ, and do differ. These should be respectfully received and considered. But I speak of applications for the exercise of powers, which we have clearly and undeniably no right to assume—like this for the dissolution of the Union, or for the annihilation of a State of this Confederacy.

It has been said, sir—and it has been said in reproach—that if we ought not to receive petitions asking us to do an unconstitutional act, we ought not to receive petitions or remonstrations against such an act. I do not so understand our own duties, or the rights of the people. There is a great difference between a proposition to do what we have no right to do, and a remonstrance against doing it, when there is reason to apprehend it may be done The one asks us to violate our oaths and the Constitution; the other to recollect the obligations of both.

This petition asks us to dissolve the Union. I shall vote for rejecting it; and if there were any other mode by which our indignation at such a wicked and foolish proposition could be more powerfully expressed, I should adopt it with pleasure. I had occasion some time since, and under much less imposing circumstances than the present, to say we ought to have one unpronounceable word, as the Jews had of old, and that word "dissolution." I repeat the sentiment—and with a stronger conviction, if possible, than ever, of its truth and importance.

We talk as flippantly of breaking up this Union, as we talk about dividing a township. The great difficulty of our position is, sir, that we do not know how well we are off The sun never shone on so prosperous a country as this; and yet we reject almost contemptuously the blessings of God, and seem utterly insensible to the favors he has showered upon us. Look over the pages of ancient history, sir; look round the world as it is, and where will you find more freedom, more happiness, less oppression, less misery, than in this country? And yet we seem from time to time ready to reject all these elements of public and private prosperity, and to destroy this Government, the world's best hope and our own. Instead of this eternal system of complaining, we should bow our knees in gratitude to Him, who gave us these blessings, and who, I sometimes fear, will strike us with judicial blindness as He did his chosen people of old. That we have difficulties sometimes to encounter is but the common lot of humanity, individual as well as national. But when these come, let them be adjusted in a proper spirit of compromise, and the future may bring us all, that the fondest aspiration can desire.

This petition asks us to take measures to dissolve this Union *peaceably*. It professes to come from the followers of William Penn, the great apostle of peace; from a portion of the most respectable Society of Friends, whose high moral qualities, no man appreciates better than I do. But what kind of a proposition is this? *To dissolve this Union peaceably!* I say it with all proper deference to the petitioners, but I say it emphatically, that he who expects such a result is either already in an insane hospital or ought to be placed there. He who believes that such a Government as this, with its traditions, its institutions, its promises of the past, its performance of the present, and its hopes of the future, living in the heart's core of almost every American, can be broken up without bloodshed, has read human nature and human history to little purpose No, sir, the Gordian knot that binds us together will never be severed but by the sword. To talk, then, of dissolution is to talk of war. Both are inseparably connected, and the evil day, that brings the one will bring the other. And what kind of a war will it be? Such a war, sir, as this world has never seen. The nearer we have been as friends, the more deadly will be our feelings as enemies. It will have all the elements of a civil war; of an intestine war. Wherever the border may be, it will be marked by blood and conflagration from one end of it to the other. Far be it from me to weigh the injuries that each portion might inflict upon the other, and then strike the balance of evil with mathematical precision. It is enough for me to know that ruinous would be the hopes of both. And where is all this to end? If jealousies and fancied rival interests, or real grievances, are to divide us into two confederacies, where is that division to stop? Similar causes will exist—they are inseparable from human nature—and we shall finally be reduced to State sovereignties; and may read our fate in the fate of the Greek Republic, so vividly portrayed by the ancient historians.

Why, sir, it is but a year or two ago since, on the occasion of a war with Mexico, that a distinguished Senator from South Carolina, (Mr. CALHOUN,) still unhappily detained from his place by sickness, depicted in glowing colors the danger of victorious generals returning from foreign conquest. I believed then, as I believe yet, that he greatly overrated the danger, and that there was a preservative force in this country, which would laugh to scorn the efforts of military power. And it was but a day or two since that the other distinguished Senator from South Carolina, (Mr. BUTLER,) now in his seat, pronounced a splendid eulogy upon General Scott for the moderation he exhibited, when he entered the capital of Mexico. The Senator, if I recollect right, thought he deserved some distinguished mark of his country's approbation for remaining faithful to her interests and his own duty, and not placing himself at the head of a Mexican kingdom. Few men, sir, have a warmer personal regard for General Scott than I have, and perhaps still fewer place a higher estimate upon his services than I do. He has won a high station among the great captains of the age, and he has also won imperishable honor for himself and for his country. The campaign from Vera Cruz to Mexico is among the proudest feats on military record. But, sir, with all this, I have no thanks to render him for the moderation to which the Senator from South Carolina alludes. I do not believe that the thought of such treachery ever entered his mind; nor do I believe that, if he had made the attempt, there was one American in the army, who would have deserted the standard of his country to follow the standard of a disloyal soldier. The stars and the stripes would have still been the cloud by day and the pillar of fire by night, to conduct our gallant countrymen to that home, whose associations neither time nor distance could weaken or sever. All honor, then, to General Scott, and to the army, for what they did and suffered; but there let us stop. I trust it will be long before we find a Rubicon in our country.

But, sir, what will gentlemen say, who anticipate such danger from military power, to the danger to be apprehended to the great sections of our country, when these are arrayed against each other in an armor and an attitude easy to foresee, but impossible to prevent? The border would bristle with bayonets. Every commanding height would be crowned by its fortress. Standing armies would become part of the permanent organization of each. And the probability is, judging from the lessons of history, that we should be brought together again by some powerful leader, and find ourselves in a consolidated instead of a confederated country, under the iron rule of a military despot. God save me from witnessing that day!

Mr. WEBSTER. Mr. President, I am much obliged to the member from Michigan for the clearness and force with which he has expressed opinions, in which, in the main, I entirely coneur, especially in what he says of that existing idealism, which I find spread over the country, that there can be or may be such a thing as a peaceable breaking up of this Union.

On the 20th of February, 1850, the motion being to refer the President's Message, transmitting the Constitution of California, Mr. CLEMENS, of Alabama, among other remarks, observed:

We live, Mr. President, in strange times, and strange scenes are being enacted around us. It is related of the celebrated Simon de Montfort, that when he surveyed the host of Edward on the field of Evesham, he murmured, "Now, God, have mercy on our souls, for our bodies are Prince Edward's." If it was in my nature to despair of a good cause, I should have been oppressed with something like the same feeling, when the Senator from Michigan, a short time since, concluded his memorable speech on the constitutional power of Congress to enact the Wilmot proviso. When even he, with his clear convictions of duty, with his deep love for the Constitution, and his great readiness to make sacrifices in its defence, dared not go beyond the assertion of general principles wholly inadequate to the protection of the South, the most sanguine might well be excused for yielding to despondency. I know that in the opinion of some of our friends the course he pursued was wisest and best, but when that is conceded, it only proves the magnitude of the present danger, and the fearful nature of that destructive element, with which he is compelled to deal so tenderly. If any thing were wanting to add to the alarm which such a speech, under such circumstances, was so well calculated to excite, it has been supplied by the Senator from Kentucky.

And in the further prosecution of his remarks, Mr. CLEMENS also observed:

I have had occasion to say so much in my short service here of the Union and its value, of the wrongs to which we are subjected, and the appropriate remedy for them, that it is

with the utmost reluctance I again approach the subject. The Senator from Kentucky has favored us with a bloody and disastrous picture of disunion, and the Senator from Michigan, a short time afterwards, in a carefully prepared speech, followed in the same lugubrious strain.

Mr. CASS. There was no preparation on the subject. The remarks never occurred to me until the moment they were delivered.

Mr. CLEMENS. Well, that is a small matter. What I mean to assert is, that both of those Senators endeavored to impress upon the country the belief that war must follow on the heels of disunion. Both of them no doubt believe that such is the case, but in my deliberate judgment all that is fancy merely. I cannot see why war should follow a separation. On the contrary, I think the good sense of both sections would teach them that, if they must part, it had better be after the manner of the Patriarch of old, and that each would say to the other, "Let there be no strife, I pray thee, between thee and me, nor between thy herdmen, and my herdmen, for we be brethren." But if it should be otherwise, if war should come, if civil discord and fraternal strife should mar the beauty of the land, the responsibility must attach not to those who maintain the right, but to those in whom the dictates of justice have been silenced by the robber's instinct.

Mr. CASS. Mr. President, I desire to say a few words in consequence of some remarks, which have fallen from the honorable Senator from Alabama, (Mr. CLEMENS;) I want to speak of myself. It is rather a disagreeable topic for any man, but it is one, which is forced upon me by what has been said, here and elsewhere. I am not going to vindicate the correctness of my opinions at all; I leave that to time and truth. I only intend to vindicate my consistency. That I undertake to do—that I will do to the satisfaction of every candid man. I do not understand exactly the allusion of the honorable Senator from Alabama.

Mr. CLEMENS interposing. I have not said any thing about the Senator's consistency.

Mr. CASS. I have not intended to intimate that the honorable Senator did so In these remarks, I did not refer to him. I was upon the point, however, of doing so in relation to another topic. I alluded not to what has just been said here, but to what had been said elsewhere. I was about to say, however, when this interposition took place, that I did not clearly understand what the Senator meant, when he said that in my speech, to which he referred, I dealt only in general principles, certainly intimating, if not saying, that I avoided a close connexion with the subject and with its consequences.

The honorable Senator is in an error, a total error, as to my course. I had two objects in view in that speech, distinctly announced at the commencement, and distinctly carried out, through the whole of it. One was to show that the Wilmot proviso was unconstitutional; and the other, that, if constitutional, it was inexpedient. All the principles, general or particular, that I dealt in, had reference to these two conclusions, as logically and as legitimately as I could apply them; whether successfully or not, it does not become me to determine. I dealt in general principles, indeed—and who does not, in the discussion of such a great and vital question?—but I brought to my aid such other considerations and illustrations, as I thought would fortify the position I had taken; certainly not deterred from avowing my conclusions, or the process by which they were reached.

It was intimated by the Senator from Mississippi, (Mr. DAVIS,) and by more than one gentleman, I believe, in the other wing of the capitol, that I had not been consistent in my course. The feelings of respect and kindness, which I entertain for that Senator are, I am sure, a guaranty to him, that I do not allude to this subject in any spirit of complaint. My course, if worthy of notice, is open to public examination, and I trust will bear it. The charge is, sir, that in my Nicholson letter I laid down principles, from which I departed in my late speech upon the Wilmot proviso. The allusion, as I understand it, is more particularly to the proposition that the people of the Territories, as well as of the States, have a right to manage their own internal concerns in their own way, and that the condition of slavery may be regulated by them, as well as any other relation of life. In that letter, sir, which seems to have become historical, far beyond its importance, I laid down four propositions, which I then deemed to be correct, and whose truth time and experience have but the more strongly confirmed. Till I change my convictions, I shall neither seek to conceal nor disavow them. If any one has misunderstood me before, I conceive the fault was his own. If any one misunderstand me hereafter, the fault shall be mine. I believe the Wilmot proviso to be unconstitutional. But before I proceed to a full consideration of this branch of the subject, I beg leave to trouble the

Senate with a brief review of my position, and of the circumstances connected with it. I have desired an opportunity of doing so for some time, as this has been made a matter of reproach—as indeed, what is not, in times like these!

When the Wilmot Proviso was first proposed, I have never concealed or denied that, had it been pushed to a vote, I should have voted for it. There is no need for any Senator to resort to and retail conversations in railroad cars to prove this. I had never examined the constitutional power of Congress, and when the subject was proposed, it did not excite that opposition from the South, which we have since witnessed, nor lead reflecting men to doubt whether such a provision could be enforced without danger to the Union. Southern men, I believe, had previously voted for a similar measure, and it had not become a grave sectional question, involving the most fearful consequences. At a subsequent session, convinced of its bearing, I spoke and voted against it; still, however, without touching the constitutional point. Afterwards, circumstances required me to examine the subject more narrowly. The public mind in the South became highly excited, and the indications were full of danger and difficulty. I felt then, as I do now, that the Union was the great object of every American, and that there are few sacrifices, which ought not to be made to preserve it. I was prepared to go as far as any man ought to go to attain that object. In examining the Constitution, with reference to the whole matter more narrowly than I had ever done before, I was startled by the conviction that no authority was granted in that instrument to Congress to legislate over the Territories; and that, consequently, there was no power to pass the Wilmot Proviso. Not satisfied with my own impressions, and being unwilling to take such a ground without proper consideration, I determined immediately to converse with some person fully conversant with the history of the legislation and of the judicial decisions on the subject. In looking about for that purpose, it immediately occurred to me that an eminent judge of the Supreme Court, (Judge McLean, of Ohio,) from his position and associations, as well as from his residence in the West, could give me better information upon this subject than any other person. Anticipating that some discussion might soon arise, that would render this explanation proper, I applied to that gentleman some days since, and requested his permission thus publicly to refer to him, should I deem it necessary. This he cheerfully granted, and I now make use of his name with his own consent. I immediately repaired to him, and stated my doubts, as well as the circumstances which gave rise to them. I need not repeat the conversation here. It is enough to say, that he confirmed my impressions, and informed me, that, in an article published in the National Intelligencer a day or two previously, and which I had not seen, I should find his views fully set forth. That article has since been republished in other papers, and has attracted a good deal of attention, as it deserves, for it is powerfully written. I speak, sir, solely of the views, which it presents of the power of Congress to legislate for the Territories. The question of slavery, which it discusses, I do not refer to. After reading this article, my doubts ripened into convictions, and I took the ground, to which I shall always adhere, that the Wilmot Proviso is unconstitutional. And you have now, sir, the history of my course upon this subject.

As I have said, I laid down four propositions or opinions, if you please, in my Nicholson letter. The first, that the Wilmot Proviso was unconstitutional; second, that slavery, having been abolished by the Mexican Government, did not exist in the territory then held by our arms; third, that slavery would not go there, as well on account of natural and geographical obstacles, as on account of the feelings of the people, who were and might be there; and, fourth, that organized communities, exercising the powers of Government, whether State or Territorial, had alone the right of determining this question for themselves. I am a great believer, Mr. President, in the rights of man, whatever may be the nature of the society, where he lives, and I am not going to sacrifice this long-cherished opinion to any abstraction, metaphysical or political. I believe the people of the Territories have just the same right to govern themselves, as the people of the States have. Nor do I believe that a man's knowledge decreases as he recedes from the shores of the Atlantic, or that a wise man at the East becomes a fool and needs a guardian, be that guardian a Congressional one, or any other kind of one, by going to the West. I am speaking here, sir, as I spoke in my Nicholson letter, of organized communities, existing governments. But I maintain, as I did in my speech a few days ago, that all communities have a right to organize themselves and provide for social order, when such order cannot otherwise be obtained. I do not undertake to say how many there must be to do this. I leave that to be determined when the cases arise. Like many other questions, indeed like most other questions not purely mathematical, the principle is correct and safe, though its application may sometimes be difficult.

This Wilmot Proviso is new in its name, but old in its pretensions—as old as the institution of governments; and it will probably last as long as government exists. It is founded deeply in human nature, which is prone to feel power and forget right. Every age of the world has had its Wilmot Proviso. Sometimes it is a stamp tax; sometimes it is a constitution, like that which the Emperor of Austria, in his wisdom and mercy, granted to the Hungarians; sometimes it is the division of Poland; but at all times it is the result of a conviction, that the governors know much better what is good for the governed, than the latter know for themselves. Sultans, Emperors, Kings, Parliaments, and Congresses, all equally entertain this opinion of their own paternal authority, and are satisfied that they ought to possess and exercise it. Now, sir, I do not believe in this doctrine at all. It does not belong to my age of progress. State or Territory, it is the people who ought to govern, so far as is consistent with their mutual relations to the United States.

It is that part of my Nicholson letter relating to the Territories, which I understand is the object of animadversion—I may say, indeed, of censure How different opinions could exist respecting the meaning of that part of my letter, I cannot conjecture. [These are the words: I quote them here, though not quoted in my speech:

"It (the interference of Congress) should be limited to the creation of proper government for new countries acquired or settled, and to the necessary provision for their eventual admission into the Union, leaving in the meantime to the people inhabiting them to regulate their own concerns in their own way"]

But, sir, independent of this obvious view, I may safely appeal to many Southern gentlemen who were here when that letter was written, and who are here now, to say whether they do not know that this was my meaning at the time? There are some of them within my eye at this moment.

[Here Mr. Butler, of South Carolina, and Mr. Davis, of Mississippi, and others, signified their assent.]

[I might have added in my speech, what I will take the liberty of adding here, that the proudest and most grateful testimonial I have ever received has recently reached me from the Democratic members of the Legislature of Tennessee. I shall treasure the recollection of it through life. In that letter I am told as follows:

"Your late speech in the Senate of the United States on the Wilmot proviso is a most triumphant vindication of the position heretofore assumed by you, that Congress has no power under the Constitution to legislate upon or meddle with the subject of slavery, either in the States or Territories, and is a complete defence of the rights of the slaveholding States, and of the people of all the States and Territories, to form and regulate their own social and municipal institutions."

I want no better endorsement than this of the correctness of my views and of the consistency with which I have maintained them. It is a full compensation for all the attacks I have experienced here or elsewhere.]

The Senator from Alabama (Mr. Clemens) will allow me to say that both he and the Southern representation, here and upon the other floor, have an easy task before them. They all live in an excited community. They naturally partake of its feelings. And I do not say that it is an excitement without cause. There is too much cause for it, though none that would justify disunion, and none that disunion would make better. The provision in the Constitution respecting the recapture of slaves has been too often and grossly violated and neglected. Every dictate of justice requires a law more efficient on that subject, and more efficiently executed. Such a law, with proper provisions, shall not want my vote. And this Wilmot proviso, unnecessary and unconstitutional as it is, has justly given great offence to the South. I trust and believe its days are numbered. But allow me to say, sir, that when Southern gentlemen attribute the interference of the North with the subject of slavery to any serious calculation about the balance of political power or of material interest, they are in a great error. It originates in other feelings. The spirit of inquiry is one of the marked characteristics of the age in which we live. It penetrates every where. There is nothing concealed from its research. Even the highest and holiest things are assailed. Why, sir, the rights of property in the South are attacked. And so they are in the North. There are men who contend that slaves should not be held in bondage, and there are men who contend with equal pertinacity, that no one should hold land, but that all things should be in common. The marriage condition is assailed; the domestic relations are assailed; the Being and attributes of God are assailed; and strenuous efforts are making to overturn the whole constitution of society. "Error of opinion," said Mr. Jefferson, "may be tolerated where reason is left free to combat it." Memorable words, and as true as they are wise. If

the schoolmaster is abroad, he takes with him a great many unsound opinions, which, however, can only become dangerous by being met with resistance instead of argument. I have said, sir, that the Southern gentlemen have an easy task before them. They feel their wrongs and express their feeling in no measured terms, and they are supported and applauded by a constituency, which feels as they do. But moderate men in the North and West are placed in very different circumstances. They are endeavoring to check the excitement. They are throwing themselves into the breach. And yet their condition is not at all appreciated here, nor are they spared in the general denunciations that are used. We hear this every day, sir, and we are becoming very impatient. Why, sir, the honorable Senator from Virginia, (Mr. MASON,) whom this whole Senate holds in the highest respect, and deservedly so, upon the introduction of a bill providing a more efficient mode of recapturing fugitive slaves, said, and repeated, I believe, many times, that it would do no good. That he knew it would do no good. What he said I thought might be translated into this: You are all a set of knaves at the North and West, and, legislate as we may, the law will be disregarded, and the slaves retained. This was not his language, and I am sure it was not his idea, and it is perhaps an extreme conclusion from what he said; but there is still too much foundation for complaint at such intimations. They do no good.

Mr. MASON, (interposing.) In the Senator's remarks upon the language which fell from me upon the presentation of this bill, I must say that he does me great injustice. My declaration was, that no law could be executed, unless it was addressed to the loyalty of the people, by whom it was to be executed; that they were disloyal through their State Legislatures to that provision of the Constitution. Certainly nothing was further from me than intimating the idea that they were a parcel of knaves in the North. But they were disloyal to that provision in the Constitution. Their legislation shows it; and because of that disloyalty, I was afraid that no such law could be executed there.

Mr. CASS resumed. I said that my words were too strong. Still, sir, I will add that these continued reproaches, denunciations I may say, will necessarily provoke recrimination, and may go far towards converting a just cause into an unjust one. Why, sir, it is only a day or two since one of the most accomplished members of this body told us in substance, that if a dissolution of the Union should take place, the Northern portion, containing twelve millions of people of the Anglo Saxon race, and embracing regions among the most fertile on the face of the globe, would be utterly destroyed. That their cities would become like Tadmor, their hills like Gilboa, their fields like the Campagna, and themselves without prosperity, without hope. That grass would grow in their high places, and that they would become like modern Tyre, while the Southern cities would become like ancient Tyre, the *entrepots* of the commerce of the world. All this grates harshly upon my ear. I do not want any man to tell me what this Union would lose, North or South, by a dissolution. It is enough for me to know that, if not fatal to both, it would check the prosperity of both, and lead to consequences, which no wise man can contemplate without dismay. I am an American, with the most kindly feelings to every portion of our beloved country. Its strength is in its union; its prosperity in its union; its hopes in its union. I do not want any one to come here to tell me the evils the North would suffer from a dissolution, or the South would suffer from a dissolution. I need no lesson upon that subject. If any one can explain to me what advantage either section would gain by a separation, I might survey such a prospect with less apprehension than I now do. Southern gentlemen will allow me to say, and I know they will appreciate the feelings with which I say it, for I have given proof of my desire to do them justice by the sacrifice of my political position, that they place the defence of slavery upon considerations which do not suit the spirit of the age. There is no use in going back to the days of the Patriarchs, and tracing the history and condition of slavery from that time to our own day, and proving its compatibility with the word of God and the wants of man. They have a much better foundation for their rights to rest upon than any such process. Slavery is an existing institution in the South, for which no living man is responsible. It is interwoven into the very texture of society. Between three and four millions of people, differing in race and color from the predominant caste, are held in bondage. I have seen a good deal of slavery, and I believe its evils are much magnified, and that the slaves generally in our Southern States are treated with as much kindness and consideration as are compatible with this relative condition of bond and free, and certainly as well as they would be treated in the North, if we had slaves there. I do not see myself how such a mass of human beings can be set free. Emancipation, unless the work, I may say, of ages, would equally destroy the whites and the blacks. God in his providence may bring it about. I do not

see that men can. It is a question which concerns the Southern States alone. They have every motive to deal with it justly and wisely, and every interference from abroad but adds to the difficulty of the position, and creates a natural reaction in every Southern mind. Unfortunately, sir, every man who does not believe that slavery is the best condition of human society, and that a community never prospered as it might do without it, is too apt to be considered in the South as a Northern fanatic, regardless alike of their rights and of the compromises of the Constitution.

Now, sir, I do not believe this, and no consideration on earth can induce me to say so. I believe that slavery is a great misfortune for any country. But the existing institution I have neither the power nor the will to touch. On the other hand, every man in the North, who does not believe it to be his duty to enter into a crusade against the South, and to cover the country with blood and conflagration to abolish slavery, is considered by a large portion of his fellow-citizens as a dough-face—*that is the cant term*—sold by his hopes or fears to the South. [*Dough-faces indeed!* Which requires greater moral courage to keep foremost among the foremost in times of excitement, and to minister to the popular feeling where we live, or to endeavor to moderate it, to hold back, to survey the whole subject cooly and impartially, and to restore harmony to a distracted country? The former swim with the current, the latter against it; and it needs little knowledge of man to know which is the *dough face*, if I may use that opprobious term. Mirabeau told the French Convention long since, that names were things. They are so, and many a good cause has been lost, because it had a bad name.] And the condition I have depicted, is that which is occupied by every man, who avoids extremes in periods of great excitement, whether that excitement is moral, social, political, or religious. History is full of the most impressive lessons on this subject. While the excitement continues, you may as well say to the whirlwind stop, and expect to be obeyed, as to endeavor to check its progress till time and reason come to your aid.

Where all this is to end, I am not presumptuous enough to try to foretell. Hard thoughts are followed by hard words, and if these are not followed by hard blows, it will be owing more to the mercy of God than to the wisdom or moderation of man. I will merely remark, in conclusion, that the Senator from Alabama (Mr. CLEMENS) has alluded to a peaceable dissolution of the Union. He will pardon me for saying, that I hope no one will delude himself with any such expectation. If it does not bring disappointment, the history of the world has been written to no purpose. In political convulsions, like that which would attend the breaking up of this confederacy, the appeal from reason to force is as sure to follow, as the night succeeds the day. May He who guided our fathers in times of peril direct us in the paths of peace and safety!

Mr. CLAY. I thank the honorable Senator from Michigan for the few remarks which he has just addressed to the Senate; and I beg leave to say, sir, that I have not a particle of doubt that the speech, the short and to me grateful speech, that he made the other day, was perfectly spontaneous and unpremeditated. I do not know when I have heard from any Senator the utterance of sentiments with more pleasure, than I did those from the honorable Senator from Michigan on the occasion to which I allude. And, sir, allow me to say, that the language in which the gentleman has just closed his short address to the Senate, that it is "ultraism" of which this country, at this moment, stands in so much danger, is founded, I lament to say, too much in truth.

SPEECH

OF

HON. LEWIS CASS, OF MICHIGAN,

IN SENATE OF THE UNITED STATES, JANUARY 21 AND 22, 1850,

On the Government of the Territories, and on the Constitutionality and Expediency of the Wilmot Proviso.

The Senate proceeded to the consideration of the special order, viz: the resolution offered on the 27th of December, by Mr. FOOTE, which resolution is as follows:

"*Resolved*, That it is the duty of Congress at this session to establish suitable Territorial Governments for California, for Deseret, and for New Mexico."

Mr. CASS. The resolution of the Senator from Mississippi is an abstract one, calling for no actual legislation. As such, I shall not vote upon it, nor does the Senator himself call for a vote. Its principles are practically applied in bills providing for the government of Territories in the new acquisitions, when the whole matter will come up in a form requiring legislation. But the notice of the Senator from New Hampshire, that he intended to move the application of the Wilmot proviso to this resolution, opens that subject for discussion; and, with the permission of the Senate, I propose to express my views upon it at this time.

There are two principal questions involved in the controversy respecting the Wilmot proviso, as indeed there are in all the legislation of Congress: first, whether that measure is constitutional; and next, if constitutional, whether it is expedient. The observations I propose to offer will be directed chiefly to the constitutional question; though, before I close, I shall submit some brief remarks upon the expediency of exercising this power, if we possess it.

Before, however, proceeding to the investigation of our rights or our duties connected with this proposition, there are some preliminary considerations, essential to the progress of the inquiry and to a just conclusion, to which I beg leave to call the attention of the Senate.

In the discussions which have taken place upon this subject, formerly and recently, all those who have contended for the power of Congress to pass this Wilmot proviso, have contended for a general and unlimited power of legislation over the Territories. I know of no exception to the universality of this proposition. The right to institute governments, and the right to legislate over the internal concerns of those distant communities, are used as convertible terms, without recognizing or without acknowledging any difference in the principles themselves, or in their practical application. And this disregard of one of the canons of freedom, hallowed by our own revolution, is not confined to the discussions here, but extends everywhere—to the judicial tribunals, and to the commentators, whose habits of investigation are more favorable to calm and searching inquiry than ours can be.

Mr. Sargent, in his constitutional law, when he says "the power of governing and of legislating for a Territory is the inevitable consequence of the right to acquire territory," evidently confounds this exercise of two powers as different in their origin as in their operation. And Judge Story takes the same view; saying in one place, "that, as the Government possesses the right to acquire territory, it would seem to follow that it possesses the power to govern what it has so acquired;" and in another, "the power of Congress over the public territory is clearly exclusive and universal, and their legislation is subject to no control," &c. And so does Mr. Rawle, who says that "the power of governing and of legislating for a Territory may be the inevitable consequence of the right to acquire territory." &c.

And in the recorded opinions of some of the judges we are told that Congress has "plenary power" and "complete jurisdiction," "without limitation," over the Territories. And these deductions—for they are only deductions—are made with as much coolness as Lord Mansfield could have exhibited had he been called upon to decide the validity of the Boston port bill, or of the act which declared "that his Majesty in Parliament of right had the power to bind the people of those colonies by statutes in all cases whatsoever."

And a member of this body, high in character as a jurist and as a statesman, has characterized the difference between the power to institute governments in the Territories and the power of unlimited Congressional legislation over them as a "*bundle of absurdities;*" while a Representative from Indiana, in the neighboring hall, with a courage that almost redeems him from the censure which such a sentiment cannot but inspire in an American breast, says that "this Government could establish a despotism in any of its Territories, beyond a doubt; this Government could sell them into slavery if it pleased."

But, with commendable charity, he provides a specific for the wound he inflicts by assuring us there is no danger. *It would be preposterous to suppose there was,* "for there is a great difference between the possession and the exercise of power." Where he learned this lesson, that there is no danger of the abuse of power, I profess my inability to tell. It is a doctrine better suited to the Neva

than to the Wabash. I thought the converse of the proposition, the proneness to abuse, was written upon every page of the political history of the world, and in warning characters upon our own institutions, and I thought it was the jealousy of this tendency that dictated our constitutions, and that calls into action a ceaseless vigilance, by which power is watched and restrained by the American people.

And a member from New York [Mr. DUER] considers the effort to secure to the people of the Territories the right to legislate for their own internal affairs "as intended only for the weaker brethren—a sort of chicken soup for invalids."—*Mr. Duer, vol. 1, p. 1048.**

This sneer at human rights is worthy of a place in Johnson's hired pamphlet against the colonies, entitled "Taxation No Tyranny." Perhaps the sentiment may be found there; it is a long time since I read it, but there is no plagiarism in the language; that belongs to the speaker.

It was precisely this claim of unlimited legislation which led to our revolutionary struggle and to our separation from England. And I must confess I have listened with amazement, in this hall of American legislation, to the long and subtle metaphysical inquiries into the rights of sovereignty, and the power it brings with it, as if the rights of sovereignty were everything, and the rights of man nothing. It is a revival, almost in terms, of the discussions between the parent country and the colonies, but in which we have changed places and now assume to exercise the very power, the power of legislation without representation, which we first denied in argument, and then resisted in arms. The British statesmen could not understand what practical limits there could be to the power of the sovereign Parliament over the colonies, and as they found none in their constitution, they admitted none in their legislation. They could not elevate their eyes from their own narrow system to those fundamental principles of human freedom, "written," as Lord Chatham said, "in the great volume of nature," which are immutable and indestructible. They had one advantage, however, in the argument of which we are deprived. They had an unwritten constitution to appeal to, and a legislature to act, which by the theory of their government was omnipotent. When, therefore, the exercise of any power was brought into question, it was not necessary to establish its existence, but it was for those who opposed it to establish the limitations by which it was sought to be controlled. But the powers of our Government are both defined and limited, and before the authority of Congress can be brought to bear upon any subject, the constitutional grant of power must be clearly pointed out.

Now, sir, it is no pleasant task to argue with any man who does not see, and feel, and acknowledge the difference between the right of unlimited legislation over distant regions, where there is no representation, and the right to organize governments, leaving to the people to be affected by them to regulate their own concerns in their own way. The one may be necessary and defensible, and is reconcilable with practical liberty. There are no circumstances which require or justify the other, or which can reconcile its exercise with the great principles of human freedom. I am well aware that the Constitution has given to Congress the power of exclusive legislation over the seat of the Federal Government. That anomalous feature in our system had peculiar reasons for its introduction, and though the condition of the people in the District places them at the disposal of a Legislature neither elected by nor responsible to them, still there is a community of interest and of feeling resulting from residence, personal intercommunication, and political associations, which temper the real despotism of the measure, and which can never exist between the members of Congress and a remote colony. And, above all, this right of exclusive legislation is one of the terms of the national compact, neither doubted nor susceptible of doubt.

I have heard a good deal said upon this subject of uncontrolled legislation over the Territories, which is the very paraphrase of what was said by Lord North, Mr. Dundas, and by other members of the Ministerial party in England three quarters of a century ago. The lessons of experience are indeed too soon forgotten, but I did not suppose that the lessons taught us by our revolutionary fathers would so soon fade from the memory of the present generation. A great principle is involved in this controversy—the inseparable connection between legislation and representation. And what paramount necessity calls for its violation? Are not the people of the Territories competent to manage their own internal affairs? Are they not of us, and with us?—bone of our bone, and flesh of our flesh? The same people, with the same views, habits, and intelligence; all, indeed, which constitutes national identity? Aye, sir, and exhibiting by the very act of emigration a spirit of enterprise which commends them the more to our respect. Cannot such a people administer their own government safely and wisely? Experience says they can. They have in every instance proved their capacity for self-government, and life, liberty, and property have been as well protected by their laws as by the laws of the States. It is clear, then, that there is no necessity for Congress to legislate for the Territories. They have never legislated exclusively; and the very few instances of the exercise of such a power upon the statute book were not only unconstitutional, but were acts of supererogation, which the Territorial Legislature was much more competent than the National Legislature to consider and determine to the satisfaction of the people of the Territory. It may be said, sir, that some of the recent acquisitions contain a considerable population foreign to our political institutions, and not as well qualified to appreciate them as our native or naturalized citizens who are familiar with their operations. But, sir, this objection—which, however, does not touch the principle—is entitled to no consideration as a practical one. There is not a territorial government we shall organize in which the majority of the active population will not be American citizens, emigrants from the older States, and in which this class of persons will not exercise a preponderating influence, controlling all public measures. What, then, have we to fear? The great issues of life and death are left to the people. No one calls this in question. And to the

* NOTE.—The references in these remarks are to the Appendix to the Congressional Globe for the 1st session of the 30th Congress, and to the Globe and Appendix for the 2d session of the same Congress; the former being designated as volume one, and the latter as volume two.

same trust may be committed, with equal safety, all the other objects of internal legislation.

And the late proceedings in California to organize a government, and the constitution which has been the result, are the best proofs that could be offered of the capacity of the people to lay the foundations of their political institutions wisely and justly. What a practical comment is that constitution upon the doubts we have heard expressed in this hall and out of it, respecting the intelligence of these remote Territories, and the necessity of restraining them by Congressional legislation. I know of no constitution in this broad Union, where the principles of rational and progressive liberty are better secured than in this first great political offering from the shores of the Pacific.

So much for the difference, both in principle and practice, between the power to institute governments for the Territories and the power of internal legislation over them. But this difference is not a mere speculative one, nor one which appeals only to the feelings of the American people and their representatives. It enters deeply into the question before us; into the constitutional power of Congress to legislate over the territories, and thus presents itself on the very threshold of this inquiry.

There is no clause in the Constitution which gives to Congress express power to pass any law respecting slavery in the Territories. The authority is deduced from various sources, which I propose to examine by-and-by. But every construction which would give to a foreign legislature jurisdiction over this subject of slavery—by foreign I mean not elected by the people to be affected by its acts, nor responsible to them—would equally give it jurisdiction over every other department of life, social and political, in the Territories: over the relations of husband and wife, of parent and child, of guardian and ward, as well as over the relations of master and servant; and embracing within the sphere of its operations the whole circle of human rights, personal and political—life, liberty, and property in all their various modes of enjoyment. I say "the power of Congress over slavery;" for, if we have power to abolish it, or to exclude it, we have power to institute it. We possess complete jurisdiction over the subject; for there is no intellect, however acute, which can so limit the legislative right of action, if it exist at all, as to apply it to the exclusion of slavery, and withhold it from its institution. If any one doubts this proposition, let him turn to the Constitution and show the limitation. Before I can believe that such a power was granted, so remote from the objects of the government which the framers of the Constitution sought to establish, belonging exclusively to the local questions affecting the different communities into which we are divided, I must abandon many of the allusions I have cherished respecting the wisdom of the statesmen who composed the Convention of 1787.

We are all aware that there are various clauses of the Constitution, and various other sources, *foreign and domestic*, whence this right of unlimited legislation over the territories is sought to be deduced. One of these, at least, is an express constitutional grant of power, and if it fairly includes the authority *to bind the Territories in all cases whatsoever*, then there is an end of this question, and we may pass this proviso and regulate all their other concerns at our pleasure. But there are other sources, accepted or rejected, as minds differently constituted take part in this controversy, whence this right is derived indirectly, as necessary to the exercise of some power found in the Constitution, or of some other power found out of the Constitution. It will hardly be denied—the time for denial has not yet come, though appearances indicate it as fast approaching—that these indirect or incidental powers are to be employed no further than is necessary to meet the occasion which calls them into action. Derivative in their nature, they are limited in their exercise. They cannot go beyond the legitimate object which is sought to be attained. If the necessity for social order in the Territories, as many, perhaps as most of the speakers contend, is the true foundation of the right of Congress to legislate over them, it is a right which extends no further than may be necessary and proper to fulfill this first duty of society. The means must be proper for the end, and proportioned to it; and if this end can be obtained by the establishment of local governments, there ceases the constitutional action of Congress, and the internal legislation should be committed to the people to be affected by it. It is essential, therefore, to ascertain whence this power comes, that we may ascertain how far it may go; essential, that we may not violate the constitution; essential, that we may not violate a fundamental principle of freedom, the unalienable connection between representation and internal legislation; and essential, that the people of the Territories may conduct their own concerns in their own way—the very cardinal doctrine of American freedom.

Reverting to the proposition that Congress has unlimited power of legislation over the Territories, the first reflection which strikes the inquirer is, that if this power were intended to be granted, nothing was more easy than for the Convention to place the subject beyond doubt by a plain expression of the object. Instead, then, of five or six clauses of the Constitution, some with remote relation to the subject, and some with none at all, which are in succession relied upon as the foundation of this power, we should have had a clear authority for the exercise of one of the highest attributes of government; the highest, indeed, the right of unlimited legislation. The clause most frequently quoted in support of this right is that which provides that "the Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States." But I have no hesitation in saying, that if general jurisdiction over life and liberty was intended to be granted by this provision, its phraseology is little creditable to the person who prepared it or to the body which adopted it. Heretofore the universal judgment of our country has pronounced that the Constitution of the United States is not less admirable for the force and perspicuity of its language than for the principles it establishes and the Government it instituted. Proper words in proper places have been till now the characteristic feature of its mode of expression. But if the power *to make needful rules and regulations for the property of the United States* —for this is the grant, and all the grant—conveys full legislative authority over this property and over all persons living in the same region of country, making man the mere incident of property, certainly never were words more unhappily

chosen, nor a reputation for clearness and certainty more unjustly acquired. That the Convention, when they intended to grant full legislative power, knew what terms to employ, is manifest from the phraseology of the provision for the government of the Federal District, and of places ceded "for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." Here the right to exercise exclusive legislation is given in express terms, admitting no doubt, and the very words are employed which are best adapted to convey the power intended to be granted, and no other power. When, therefore, a construction is put upon the authority *to make needful rules and regulations for property*, which carries it far beyond the obvious import of the words, those assuming this ground are bound to explain why similar language was not used to grant similar powers, and by what just rule of implication a phrase so limited is made to convey a power so unlimited. How is it that, in the same instrument, *to exercise exclusive legislation* and *to regulate property* convey equally a general jurisdiction over all the objects of human concern? No man has done this. No man has attempted to do it; and it is an obstacle, *in limine*, which, till removed, is insuperable.

I have looked over the discussions on this subject with a view to ascertain whence this power is derived by the various speakers or writers who have taken part in this controversy, and it is not a little curious to analyze the different opinions, and to find what diversity of sentiment prevails respecting the true ground of Congressional interposition. There seems to be a sort of consentaneous admission that the power exists, but then comes the diversity of views when seeking to justify its exercise by the provisions of the Constitution.

I will enumerate the most prominent of these suggestions, and then proceed to test them by the principles of the Constitution:

1. The principal reliance, till recently, for the support of this general power of legislation has been upon that clause of the Constitution, already quoted, which authorizes Congress to "dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States." More recently, however, as the subject has been investigated, this clause has found less favor, and other provisions have in succession been brought forward as justifying Congressional interposition. Among these are—

2. The war and treaty-making powers.
3. The right to admit new States.
4. The right to sell the public lands.
5. The right of ownership.
6. The right or duty of settlement.
7. The right of sovereignty.
8. The nature of government.
9. Nationality.
10. The principles of agency and trust.

11. That provision of the Constitution, which declares that "all debts and engagements entered into before the adoption of the Constitution shall be as valid against the United States under this Constitution as under the Confederation." The ordinance of 1787, it is contended, is one of these engagements, and the Governments established by it are therefore recognized by the Constitution.

12. While it is admitted that the ordinance of 1787 was "passed by the old Congress of the Confederation without authority from the States," it is contended, not that the clause respecting "debts and engagements" confirmed it, but that it "had been tacitly confirmed by the adoption of the present Constitution and the authority given to Congress in it to make needful rules and regulations for the territory."

These various reasons are not selected here and there from speeches and essays, first separated from their natural connection, and then arranged in a formidable column for the sake of effect, but they are each and all of them urged with zeal, and I doubt not with sincerity, as grounds for the constitutional action of Congress upon the subject of the Wilmot proviso.

Much of the confusion which accompanies this subject has obviously arisen from the use we now make of the word "*territory*," applying it to those political communities which are organized under the name of Territorial Governments, and considering it as so applied in the Constitution. Indeed, so prevalent is this notion that, in an address of the Democratic members of the Legislature of New York, dated in April, 1848, this clause is quoted as though it read *territories* or "other property belonging to the United States;" thus fixing upon the word its acquired political signification. And this example has been followed in the House of Representatives, where one of the most intelligent members says, "the Constitution speaks of territories belonging to the United States." This use came by time, for the ordinance of 1787 obviously employed the word territory as descriptive of a region of country belonging to the United States, and which had been ceded to them by the members of the Confederacy. The "western territory" was its popular designation, and it is thus called in an act of the old Congress passed May 20, 1785, entitled "An ordinance for ascertaining the mode of disposing of lands in the *western* territory." The meaning is here geographical, and not political; for no government was established there till more than two years after this period. And the proceedings of the old Congress abound with its use in that signification, proofs of which will be found in an act of April 13, 1785, in another of May 9, 1787, and in yet another of May 12, of the same year, all before the passage of the ordinance for the government of the northwestern territory. Then came that ordinance providing for the government of this region of country, this *territory*, or *land*, or *domain*, as it is indiscriminately called in the legislative and other official acts of that period. Its more appropriate political designation seems to have been "*district*," for the ordinance commences by declaring "that the said territory, [or region of country,] for the purposes of government, shall be one *district*, subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient." And these districts were each to constitute a government, with a governor and judges to "reside in the district," who are to "adopt and publish laws in the district," and eventually, with a partially elective legislature, having authority "to make laws in all cases for the good government of the district," &c.

The territory or region of country is thus organized into a political district; and had these local communities, which we now call *Territories*, preserved this term district as descriptive of their

political organization, or been known as Colonies, the English designation for remote possessions, we should probably never have heard of the extended construction now given to this power of *making needful rules for territory or land, and other property.* As in the Ordinance, so in the Constitution, both adopted in the same year, the word territory retains its geographical signification, and it was only by time and custom that it sometimes came to mean political communities, distinct from the geographical region where these are established. But this use of the term, I repeat, was unknown at the time of the adoption of the Constitution.

What, then, is the true import of this constitutional power, to make needful rules and regulations for the public property? If this were a question of the first impression, and a construction were now to be put upon this clause unembarrassed by practice or precedent, it is so clear in its phraseology and objects, that it is not probable there would be any diversity of opinion upon the subject. It would be conceded that it gave to Congress power to dispose of, use, and preserve the public property, wherever situated, and to exercise any power fairly "*needful*" to attain these objects. The slightest analysis establishes this construction. It is property alone which is the subject of the grant; and its disposition, and in connection with that, its use and preservation, are the objects. The frame of the sentence places this beyond doubt. The phrase "territory or other property," makes territory one of the classes of property, and was doubtless here introduced as far the most important of them, being the *Western Territory*, the great fund destined to relieve the finances of the infant Confederation. He who denies this, is beyond the reach of philological reasoning.

There are two provisions of the Constitution, and only two, which touch the property of the United States. One is the clause which we are considering, and which contains this necessary grant of power to the Government, as a landholder or holder of other property, to use and dispose of the same at its pleasure; and the other is the clause authorizing Congress "to exercise like authority (exclusive legislation like that exercised over the District of Columbia) over all places purchased by the consent of the Legislature of the State in which the same shall be situated, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings."

The object of these clauses is essentially different. The is to enable Congress to manage and control the property of the United States, wherever situated, in order that it may be applied to its proper uses without the necessity of resorting to other legislation, and the other to exercise jurisdiction over all persons living in their *forts and other buildings*, in circumstances where such jurisdiction is necessary, and is accordingly ceded by the proper authority. The one provision is universal, applying wherever the United States have property. The other is applicable only to places held for special objects, and where cessions of jurisdiction are expressly made.

Now, it is manifest that if the power *to make needful rules and regulations* conveys a general grant of legislative authority, then the express clause for the exercise of jurisdiction with the consent of the States was unnecessary, and the Government of the United States, wherever it owns property, possesses by the act of ownership complete legislative jurisdiction within its limits.

For it is to be observed that this power "to dispose of and make needful rules and regulations," attaches to the public property whether found in the States or Territories, and is the only authority by which the public lands, wherever situated, are sold. And, consequently, the people living thereon, are subject to Congressional legislation, and may be placed beyond the reach of State authorities. Either this consequence follows, or the very same words, operating upon the very same subject, convey powers altogether different.

It is under this authority that our whole system of land laws has been established; that land has been surveyed and sold, trespasses prevented or punished, intrusions prohibited, and the proceeds of the National domain realized and carried to the National Treasury. The laws for these purposes are general in their operation, not applicable to the Territories alone, but embracing in their action those portions of all the States where this kind of property exists.

And these laws, passed by virtue of this clause relating to the public property, cease to operate as soon as the United States cease to own such property. If a tract of land, wherever situated, whether within a State or Territory, is paid for and sold, all the provisions for the security of the United States, arising out of this special clause of the Constitution disappear at once, and the tract passes into the common mass of property, subject to all the usual incidents, and governed only by the usual local laws.

But it is yet strenuously contended, though certainly not with the same earnestness of conviction which marked the earlier discussions of this subject, that the natural and obvious import of this clause, giving Congress power to make *needful rules and regulations for the public property*, is not the true one, but that it gives complete legislative jurisdiction over the property itself and over all the persons living within the Territories of the United States. And why? I have examined with some care the long debates upon this subject, and I find there are two different views taken of this clause, both of which unite in the same conclusion, but separate in the process by which it is reached. Those who advocate the one, contend that the word "territory" does not mean land alone, but includes also political jurisdiction; thus making American citizens a part of the national property, which Congress may "dispose of," or otherwise *regulate* at its pleasure. The advocates of the other, who certainly bring to this discussion greater numbers, as well as higher talents and position, while conceding that the word "territory" in this connection means *land*, maintain that the right to make needful rules and regulations concerning it, necessarily conveys unlimited powers of legislation over such property, as well as over the political communities, called Territories, where it is to be found.

So far as I have been able to ascertain, a member of the House of Representatives from Massachusetts [Mr. HUDSON] is the new Galileo to whom we owe the discovery that the people of a Territory are property; and that the framers of the Constitution, with equal liberality and wisdom, made special provision for their sale whenever it

may please Congress to put them into the market; and, as a corollary from this doctrine, the construction which considers territory in this clause as land or *other property*, is denounced as a "miserable quibble," *put forth possibly to please the faithful*, and the honor of its paternity is attributed to me by name, and with one of those sneers of intelligence with which great minds—alas for the infirmities of human nature!—are but too prone to consummate their victories over small ones. Truth, however, compels me, while professing my sincere adhesion to this position, to decline the honor of this gentleman's censure, and to limit my claim to the humble services of a disciple in this school, while disavowing the title of master. Had he sought his principles of government less in European writers, and more in the Constitution of his country, and its expositions, it would not be necessary for me to tell him that it is the Supreme Court of the United States which years ago put this construction upon the Constitution, and pronounced territory and land in this article to be synonymous. I place in juxtaposition the dictum of the gentleman from Massachusetts and the opinion of the Supreme Court, in the case of the United States *vs.* Gratiot and others:

"Mr. Hudson."

"This new doctrine of Gen. Cass, put forth possibly to please the faithful in certain parts of the country, is entirely superficial, and will not bear the test of examination for a moment. Because *territory* and other *property* are associated together, the General contends that territory must be synonymous with land, and that the clause simply confers the power to buy and sell it, as they would any other species of property, goods, or chattels."—*Vol.* 1, *p.* 664.

"The Supreme Court.

"The term 'territory,' as here used, is merely descriptive of one kind of property, and is equivalent to the word lands; and Congress has the same power over it as over any other property vested in the United States," &c.

I suppose I may shelter myself under this authority, *faithful among the faithless* who desert it; for this gentleman, while affecting to place confidence in the Supreme Court, denounces its opinion; and I leave it to him to reconcile his assertions with the history of his own times. How the Supreme Court, after thus deciding that *territory* here means *land*, could decide also that *the power to sell and regulate land* includes the power of *unlimited political jurisdiction*, I profess my inability to comprehend; more especially as the power to be exercised must be "needful," and this necessity upon the face of it is incompatible with the idea that "this power is vested in Congress *without limitation.*" But I shall return to this subject in the further progress of my remarks.

Now, sir, what are the reasons urged in favor of separating this word *territory* from its natural connection, *other property*, or, I might rather say, in favor of unlimited legislation over it as a political community? I will try to deal with the doctrine as fairly as I can, and as gently as may be, though I should consider my own time as well as yours badly spent, were I to undertake any serious refutation of it. He who considers American citizens as property, and seeks upon this assumption to establish a great constitutional power, should not come to promulgate his doctrine in these halls, whose foundation was laid by Washington, and whose superstructure is dedicated to the principles of constitutional freedom.

Vattel says "that possessing the territory gives us a perfect right to govern and control it." Then follows another quotation from Vattel, the spirit of which is found in this commentary of the speaker. "In this passage," he says, "the term *property* is used in a broader sense than mere *land*. It implies sovereignty or jurisdiction." And then comes another quotation, and another commentary. I omit the former and give you the latter:

"Here, Mr. Chairman, we have the authority of Vattel for saying that a nation has property in her sovereignty, and that the right of domain implies the right of empire; that owning the territory gives absolute jurisdiction, and hence full legislative power. What then becomes of the miserable quibble about *territory and other property?*"

And this is followed by much more of the same sort, and all this time amid a profuse display of learning, collected for the purpose, it seems never to have occurred to the speaker that a certain instrument, called the Constitution of the United States, had quite as much to do with this question of the power of Congress, as transatlantic writers who died from a century to two centuries before our time, and who were discussing questions of national and natural law under a good deal of bias arising out of monarchical institutions, where the sovereign, agreeably to the doctrine of Louis the XIV., was the State, and not the authority of the various departments of our Government.

And this speaker was followed by another who fortified the doctrine by his own peculiar views, and peculiar indeed they are, and by abundant references to the dictionaries and to other equally learned authorities. He begins by declaring that "the men of the Revolution, the framers of the 'Constitution, were masters of the English lan-'guage. They used just words enough and no 'more. They invoked the powers of the language 'to confer in the briefest and clearest manner this 'plenary power upon Congress." And this eulogium is pronounced with apparent sincerity, certainly with all due gravity, the better to prepare us for a construction as much at war with the plain words of the Constitution as with the fundamental principles of human freedom. He asks, with emphasis, "What means the word territory? Does it mean simply 'public lands?'" Certainly not. When the Government owns the soil, the word *territory* as applied to it means that soil, and the dominion which lies like an atmosphere upon it. The word "territory," then, expresses a compound idea, viz: land and dominion. If the Government does not own the land, it expresses then a simple idea, viz: dominion over the land. In neither case is its meaning synonymous with "land" or "public lands." In either case it expresses a thing which is "the property of the Government." All this is equally clear and satisfactory, and thus is it proved logically, constitutionally, and almost mathematically, that the inhabitants of a territory are a "thing," "the property of the Government." But further, because colonial possessions are spoken of as belonging or appertaining to the parent country—the territories of the East Indies to England, for instance—the speaker says it is so in the dictionaries; therefore "the matter can be made no plainer by argument," and our territories are by the Constitution made property *belonging to the United States*, and may be sold and governed as such—land, people, and all.—*Mr. Rockwell, vol.* 1, *p.* 794.

I cannot argue such a point as this; nor under-

take to refute the proposition that unlimited jurisdiction over large bodies of our fellow-citizens, embracing in its operation all the rights which belong to man, whether natural or political, is "a thing which is the property of the Government." Do we hear aright, when we hear an American legislator contend for a construction of the Constitution which carries us back to some of the worst doctrines of the middle ages—to those feudal times, when the dignity of land was far more exalted than the dignity of human nature, and when men, I mean the many and not the few, were bound to the soil, like the trees growing upon it, as they are yet in some of the countries of the Old World, and one of the principal elements of its value? All this has passed away, wherever the very first glimmering of the light of freedom has penetrated, and the attempt to revive it here is among the strangest of the strange political revulsions which it has been my fortune, or rather my misfortune, to witness in a long and active life.

A few passing remarks upon the practical consequences of this position, and I leave it to exert what influence it may upon the subject before us.

If the word "territory" here includes the right of jurisdiction, it follows that it was the intention of the framers of the Constitution to confer upon Congress the power to sell this jurisdiction over all the western cessions, and that this clause accomplishes the object. For, whatever be the true meaning of the word "territory," whether soil or dominion, or both, the authority granted is an authority to *dispose* of or sell it, equally with "other property." No process of analysis can separate the right to sell the "territory" from the right to sell the "other property." Congress, by this construction, could sell to every man the right of jurisdiction over his section or quarter section, as well as the right of soil; or it could sell the title to one man, and the jurisdiction to another, or both, or either to a foreign State, or to its subjects. The bare enunciation of such a proposition carries with it its own refutation. I cannot deal with it as a subject of argumentation. The power, under any circumstances, to cede a portion of the United States is, to say the least of it, a very doubtful one under our Constitution. For myself, I can find no such grant of authority in that instrument. Its powers are preservative, not destructive. I am speaking of a direct unquestioned cession; not of the fair settlement of a disputed boundary with a foreign nation, where the question is uncertain, and where the act of adjustment establishes the true line of demarcation. But that the Convention of 1787 should make it a fundamental provision of the new Government that it might alienate from this country, at its pleasure, and by the acre too, its vast western domain, the object of so much solicitude and the cause of so many dissensions, almost terminating in separation, is a proposition equally at variance with our political history and with the spirit of our political institutions. And what still adds to the surprise which this course of reasoning is so well calculated to excite, is the fact that gentlemen who seek by construction to give to Congress this unlimited power of cession are among those who contend most strenuously for the obligation and inviolability of the ordinance of 1787, and for its virtual recognition by the Constitution; notwithstanding that ordinance places the *western territory* beyond any other final disposition than that of admission into the Union, with all the rights of the original members.

The other construction, which deduces a power of unlimited jurisdiction from this constitutional authority "to dispose of and make needful rules and regulations concerning the territory or other property belonging to the United States," concedes that territory is here land and property, but maintains that the needful regulation of it includes complete jurisdiction—not only the power to establish territorial governments, but to legislate for the Territories in all cases whatsoever.

It is not necessary to make extracts from various speeches to show how prevalent is this opinion of the omnipotent power of Congress over the Territories. I have already referred to the declaration *that they may be sold into slavery;* and though this position is the legitimate consequence of the doctrine of unlimited jurisdiction, still there are few who would thus boldly follow it to its just conclusion. There is, however, so little diversity of views upon the question itself, that nothing would be gained by reference to individual speakers, where the general deductions are the same.

But, besides the views called forth by this discussion, opinions have been advanced by high tribunals and by judicial functionaries which bear upon the subject before us, and which are, of course, entitled to great consideration. While avowing my respect for these authorities, I claim and shall exercise the right which belongs to an American Senator, and indeed to every American citizen, freely to examine for myself any point of constitutional law, and not the less freely when required to act upon the subject in this branch of the National Legislature.

"The power (to make needful rules and regulations, says Mr. Justice Baldwin) is of the most plenary kind. Rules and regulations respecting the Territory of the United States; they necessarily confer complete jurisdiction. It was necessary to confer it without limitation to enable the new Government to redeem the pledges given by the old in relation to the formation and powers of the new States." I do not understand this *necessity* at all. I find it nowhere, but in the opinion of the judge. But while I say this, as I have a right to do, I am happy in having this opportunity of offering my tribute of respect to the memory of this able and excellent man. I knew him well in earlier and in later life, and to a vigorous intellect he united a clearness of conception and a power of investigation I have rarely known excelled; and with these qualities he carried to the bench of the Supreme Court extensive acquirements, both professional and general, and a purity of purpose never called in question. Still, while doing this justice to his memory and to my own feelings, I differ not the less from his views upon this subject. The powers of the new States depend no more on Congress than do the powers of the old. Both depend on the Constitution. Nor are the new States *formed* by Congress: they are formed by the people and admitted, not under this clause of the Constitution, nor by virtue of any pledge, recent or remote; but by virtue of the clause giving Congress power *to admit new States into the Union.* What, then, becomes of this *necessity* as the foundation of unlimited jurisdiction? It vanishes, and with it the jurisdiction sought to be established.

I have already referred to what the Supreme

Court said in another case; but I renew the reference for a different purpose, and extend the quotation to show whence this power, in the opinion of the Court, is derived.

"The term 'territory,' as here used, is merely descriptive of one kind of property, (says the Court,) and is equivalent to the word *lands;* and Congress has the same power over it as over any other property belonging to the United States; and this power is vested in Congress without limitation, and *has been considered* (a cautious expression, by-the-by) the foundation upon which the territorial governments rested." And they refer to a preceding opinion, where the Chief Justice, speaking of this article, and the powers growing out of it, applies it to the territorial governments, and says, "all admit their constitutionality." And again: Florida while a Territory was "governed by that clause of the Constitution which empowers Congress to make all needful rules and regulations respecting the territory or other property belonging to the United States." The word "territory," the Court says, "is here synonymous with land." Using the synonyme, the phrase will substantially read thus: CONGRESS SHALL HAVE POWER TO DISPOSE OF AND MAKE NEEDFUL RULES AND REGULATIONS CONCERNING THE LAND OF THE UNITED STATES. And we are asked to believe that this guarded clause conveys *complete jurisdiction, full power of legislation* over the land itself, for all purposes, and over the individuals or communities, not only living upon it, while public property, but living upon it after it ceases to belong to the United States, and also upon those living in the same region. We have seen it laid down that this power is "*plenary*," and that rules and regulations concerning land necessarily confer "complete jurisdiction" over land and men also.

We can well understand that a power to *sell the land of the United States, and to make needful laws concerning it*, gives the right of legislation for all purposes fairly connected with the use and sale of that kind of property, and necessary to these objects. The right to survey it, to convey it, to improve it, to protect it, and to use the various means properly required therefor; for these purposes, *concern the land*, and the laws operate upon individuals in relation to their purchases, and upon all others who interfere with the rights of property in the United States. But how does a murder *concern the land?* or a marriage? or a note of hand? or any of the infinite variety of acts which pass between individuals in civilized communities? And if they do not, whence comes the Congressional power of legislation, by which such acts are to be commanded, or prohibited, or punished? The Supreme Court indeed says that the power of Congress is without limitation; but the Constitution says it is not. The Constitution says, in the first place, that it must be *needful;* and, in the next place, that it must *concern the land;* and both of these injunctions are limitations, and guarded ones, too, upon the exercise of legislative power. *Needful*, not for all purposes; not for general jurisdiction; but for the objects of the grant of power, which *concern the land*, and cannot be separated from it.

In a paper to which I shall hereafter more particularly refer, and which has recently made its appearance, containing the opinions of an eminent statesman, (Mr. Adams,) recorded contemporaneously with the events which provoked his animadversions, and which bears the impress of a high state of excitement, this word "needful" is summarily, if not satisfactorily, disposed of, and is actually made, instead of limiting the power of Congress, to extend it indefinitely; far enough, indeed, to render nugatory all the safeguards of the Constitution. The writer of these annotations would have had much more difficulty in reaching the Presidency than he experienced, had this latitudinarian doctrine been known to his countrymen. There is nothing in our whole political history more loose and dangerous than the sentiments he has thus left upon record. "As to the force of the term needful," he says, "I observed it was relative, and must always be supposed to have reference to some end." Needful to what end? Needful to the Constitution of the United States—to any of the ends for which that compact was formed. Those ends are declared in its preamble: 'to establish justice,' for example. What can be more needful to the establishment of justice than the interdiction of slavery where it does not exist?

And this is the constitutional reasoning of a President of the United States. The grants of power in the Constitution are not to be sought in that instrument itself, where they are carefully enumerated, and all others as carefully prohibited, but in the preamble, which merely announces the general motives of the people in the establishment of a new Government. In all the controversies to which the attempt to enlarge the powers of Congress by calling to their aid the introductory declaration of the Constitution, has given rise, this is the first time we have seen it contended that that declaration contains absolute grants of power, and not mere inducements or reasons for the more extensive exercise of those expressly provided for. This is as far as the heresy till now has been pushed. But a new chapter is opening upon us.

In the able contemporaneous essays in the Federalist upon the grants of power in the Constitution, no such constructive enlargement of them is claimed; and the celebrated report of General Hamilton, upon the subject of manufactures, though it calls to its aid the "general welfare," as authorizing the appropriation of money, refers to that provision as it is found in the 8th section of the Constitution, and not to the preamble. He supposes this process would never be pushed further; "that it would not carry a power to do any other thing not authorized in the Constitution, either expressly or by fair implication." He was a man of great sagacity, but his sagacity failed him here.

The power to pass "needful" laws respecting property conveys the power to pass any laws which in the opinion of Congress would "establish justice," or "promote the general welfare," or "secure the blessings of liberty to ourselves and our posterity," for these are all equally among the "ends declared in the preamble to the Constitution." Why, this is the very consequence foreseen and foretold by the Legislature of Virginia in the resolutions of 1799, as the result of this indefensible latitude of construction: "that it would have the inadmissible effect of rendering nugatory or improper every part of the Constitution." Judge Story has, no doubt, laid down the true doctrine upon this subject, where he says that "the preamble can never be resorted to to enlarge the

powers confided to the Government or any of its departments."

Mr. Adams separates "needful" from the context, as though the words territory or other property did not exist, and maintains that any power may be exercised which is "needful" to promote justice. Whether he means to *promote justice* in the Territories only, under this new process of interpretation, or to extend the authority to the whole Union, thus *promoting justice* everywhere, I do not undertake to judge. The constitutional restriction being struck out, I do not know what limitation remains. If so, this little word "needful" becomes a constitution, or rather leaves us without one. But if the Territories alone are to be the subject of this omnipotent power, founded upon a single word, the principle is broad enough in its application to another provision of the Constitution to extend this new Congressional authority to every part of the United States. It is "necessary and proper" that any measure required to give effect to the clauses of the preamble, should be adopted, and thus we have a rod, which, in the hands of a necromancer, is to swallow up all its competitors. Instead of asking what the Constitution grants, we may well ask what it withholds. Congress becomes the supreme legislator. The "common defence" may require that martial law should be proclaimed by Congress, and the Constitution would thus disappear as readily as similar safeguards fall before European violence. There is no intelligence which can give even the appearance of plausibility to so monstrous a doctrine; no respectability which can make it respectable. If not again consigned to the tomb, from whence, in an unlucky hour, it was withdrawn, it will remain as one among the strange aberrations which sometimes come to teach us that great powers and signal failures, in their exercise, belong to all the conditions of humanity.

"No one has ever doubted," says Judge Story, "the authority of Congress to create Territorial Governments within the territory of the United States," under the clause "to make all needful rules and regulations." The power is maintained in the preceding quotations to be direct and "complete," not incidental and constructive. Rules and regulations for the public land *ex vi termini* mean "plenary" legislative power. What, then, confines the operation of this clause to the territory? Why is it not co-extensive with the public land, thus excluding the jurisdiction of the States, wherever this kind of property exists? And again, if this power of legislation is given over the land of the United States, as such, that is as property, agreeably to the dictum of the court, which is obviously correct, what continues its operation after the land is sold, and ceases to be public property? By the act of sale the land is withdrawn from the category of public property. "It belongs to the United States" no longer, and it is therefore no longer subject to the jurisdiction of Congress. The power departs upon the departure of the object upon which it should be exercised. And in conformity with this view, as I have already stated, all the acts of Congress relating to the public land, whether in States or Territories, cease to have effect the moment the title of such land passes from the Government. The laws, having performed their functions, cease to operate there.

We are told, sir, that in a multitude of counsel there is safety. A multitude of reasons rarely add to the safety of legal deductions, when these reasons depend upon philological investigations. A half dozen words fitly employed would have conveyed the power contended for, beyond controversy. Dictionaries have been ransacked, and a good deal of learning has been exhausted to prove that the words "to make all needful rules and regulations" are sufficiently comprehensive to include the Constitution itself, and all laws that can be passed. Well, sir, I shall take no part in these disquisitions—subtleties, I might call them—showing that a constitution, as it prescribes rules of action, using the term in a very general sense, may itself be called a rule.

But I believe the Convention which formed our Constitution would not have added to the respect their labors inspire, if, in that great act of creative political power which precedes and introduces the Constitution of the United States, and announces the will and objects of the people in the formation of a new government, instead of the DECLARATION "do ordain and establish this Constitution," had they DECLARED that *the people do ordain and establish this* RULE, or even these RULES; or if, in the very first creation of authority, instead of vesting all "legislative powers" in a Congress, they had adopted these new views, and vested in that body *all regulating powers*, and had substituted the phrase *to make all rules* which shall be necessary and proper to carry into effect the enumerated powers for the existing clause, which enables Congress to make all LAWS for that purpose; or, still further, had declared "THIS CONSTITUTION AND THE REGULATIONS of the United States, made in pursuance thereof, &c., shall be the supreme REGULATION of the land." It is all idle to tell us that the Convention, by "needful rules and regulations," intended to convey "complete jurisdiction." They must have had some reason satisfactory to themselves for the use of this peculiar phraseology, and it was because they did *not* intend to grant this "complete jurisdiction" that these words were probably employed. The object was the disposition and protection of the public property, and to ensure that, and that alone, terms truly relating to property were employed, and those elsewhere used in the Constitution for the general objects of legislation were carefully avoided. We are indeed told, and it is among the new doctrines to which this controversy has given birth, that, "if this definition [that law is a rule of action] be correct, rule and law are synonymous; for, in other words, convertible, a conclusion equally illogical in argument and unfounded in fact] and they command or prohibit." "It is obvious, therefore," continues the speaker, "that the grant of power to make rules and regulations cannot be restricted to or controlled by the word property, but must be applicable to the acts and rights of citizens upon such territory." "It would be absurd for Congress to make a rule or law for the government of *inert matter—land, territory*—commanding it to do or prohibiting it from doing certain acts."—*Mr. Starkweather, vol. 2, p. 91.*

This reasoning, if it can be dignified with that term, were it good for anything, applies as well to the States as to the Territories, and carries complete jurisdiction everywhere. By proving too much, it would prove nothing at all. But it is founded in a misconception so palpable as to excite

surprise that the speaker did not detect the fallacy before he committed his remarks to the press. The proposition seems to be that, although Congress have the right of special legislation "concerning land," such right of legislation cannot in fact concern the land, because it is *inert matter*, but confers "complete jurisdiction" over all persons upon it. To state such a proposition is to refute it. "Inert matter" may be the subject of legislation, as is shown by almost every page of our own legal code, and of every other legal code. The title and descent of estates may be regulated, and a thousand other acts done, which "concern land," though till now, I suppose, it never entered into the heart of man to conceive, nor the tongue of man to declare, that the *thing* regulated was *commanded or prohibited*. But when, in order to carry into full and fair effect such power over *things*, it becomes necessary to "prohibit or command" any acts relating thereto, then the law operates upon persons, and it is their duty to do, or to leave undone, the acts so required or forbidden. But such power of legislation cannot extend beyond the true object of legislation, and there would be an utter prostration of all the barriers of the Constitution were "complete jurisdiction" the necessary consequence of every grant of power "concerning land," or any other species of "property."

The second argument urged in support of the authority of Congress to legislate over the Territories is derived from the war and treaty-making power, which bring with them as an incident the right of acquisition, and this is followed by the right of legislating over the country acquired. Besides many speakers who have advocated this doctrine in debate, and a majority perhaps have done so, there are eminent authorities who avow the same opinion, and whose views are entitled to great consideration.

The effect of the war-making power upon the right of acquisition is, under our Constitution, an inquiry purely speculative, as no territory has ever been added to the Union by that process. Though the principle is thus broadly laid down, yet it is rather difficult to conceive how the mere act of war, though it bring conquest with it, can permanently annex a foreign country to the United States without the interposition of some department of the Government constitutionally competent to indicate the national will on the subject; and if this be so, the war-making power cannot be said to make the acquisition, or, in other words, the annexation, though it may afford the opportunity of its being made. The act of conquest and the act of annexation are, in such a state of things, as different in their character as in their operation. A treaty of peace confirming the conquest, and making the cession, carries the question to the treaty-making power. What course will be pursued to declare or to secure annexation, in the very improbable event of the conquest of a foreign country by the United States, with the determination of the Government utterly to subdue it, and to destroy its political organization, so that no authority could exist to give its assent to the terms proposed by the conqueror, is a case so little likely to happen as scarcely to deserve a place, even as a subject of speculation, in an elementary treatise. In Europe, the difficulty would be at once removed by a proclamation from the Sovereign, announcing the acquisition, and declaring its future condition.

But the treaty-making power is clearly competent to acquire territory; though the proposition that acquisition necessarily brings with it the authority of legislation is another and quite a different question.

"As the General Government," says Judge Story, "possesses the right to acquire territory, 'either by treaty or conquest, it would seem to 'follow, as an inevitable consequence, that it pos-'sesses the power to govern what it has acquired."

"The territory does not, when so acquired, be-'come entitled to self-government, and it is not 'subject to the jurisdiction of any State. It must 'consequently be under the dominion and jurisdic-'tion of the Union, or it would be without any 'government at all."

"The power of governing and of legislating for 'a territory," says Mr. Rawle, "may be the inevi-'table consequence of the right to acquire terri-'tory."

"Perhaps," says Chief Justice Marshall, after referring to the clause authorizing the making of needful rules and regulations as the source of this power of legislation, "the power of governing a 'territory belonging to the United States, which 'has not, by becoming a State, acquired the means 'of self-government, may result necessarily from 'the fact that it is not within the power and juris-'diction of the United States. The right to gov-'ern may be the inevitable consequence of the 'right to acquire territory."

It is obvious, from the identity of thought and similarity of language which mark these extracts, that they owe their origin to a common source. I presume this source was the view presented by Judge Marshall, and that both the commentators followed the path marked out by that eminent man and able judge. He indeed speaks doubtfully upon the subject, and advances the idea with caution, and rather as a suggestion than as an opinion. "May" and "perhaps," are far from indicating a settled conviction, especially after the power had been traced to another source. But what he doubted one of these writers considered incontestable, and the other nearly so; and both are now referred to in discussion as authorities which none but a "half crazy politician," to borrow a phrase we have heard upon this occasion, would call in question.

As neither of these distinguished jurists state their position in constitutional terms, it is not very easy to ascertain the precise extent or limitation of their views. What is here meant by "inevitable consequence?" Is it a logical consequence deduced from the language of the Constitution, and which makes the power of government an integral part of the treaty-making power, or a consequence resulting from moral necessity, imposing a duty which ought to be fulfilled; or is it the constitutional consequence, which grants implied powers, in order to exercise express ones? It can hardly be the first, for the right to acquire is one thing, and the right to legislate another, and the act of acquisition is complete within itself. Treaties may be made with foreign nations; treaties of peace, of commerce, of limits, of acquisition, and for other objects; for the power granted by the Constitution is general, and not restricted to any particular class of these instruments. They

include all the objects relating to foreign intercommunication, without which the power could not be fairly exercised, and which are not contrary to the Constitution nor to the rights of the States. They do not carry with them the power to cede, at any rate to cede portions of sovereign States, for their sovereignty does not belong to the Union; nor can the Union add to or take from it without their own consent. The treaty-making authority acquires territory by treaty. The power to dispose of it, and the power to admit it into the Union, when formed into States, are both expressly given, and of course, if not given, could not be exercised. The power to legislate for it is not given, and how, then, can that be exercised? It is clear, sir, that the idea of legislation is not included in the idea of acquisition, nor so closely connected with it that the one power cannot be exercised without the other.

It may be that by "inevitable consequence" we are to understand a consequence resulting from moral necessity, and which imposes a duty that ought to be fulfilled, and there is a part of the opinion of Judge Marshall and of the commentary of Judge Story which favors this suggestion; for it is said, as an inducement to the exercise of this power of legislation, that, as the territory cannot govern itself, and is not subject to any State, "it must consequently be under the dominion and jurisdiction of the Union, or it would be without any government at all." This moral necessity, where it exists under sufficiently imperious circumstances, may justify the representative to his constituent for the assumption of power for which no constitutional warrant can be found. But it can have no place in an inquiry into the true powers of the Legislature which thus assumes to act on the ground of necessity. Such a case is out of the pale of the Constitution, and involves considerations not connected with this branch of the subject, and which I shall examine in another connection before I close my remarks.

To return to the inquiry into the meaning of this "inevitable consequence," is it the constitutional consequence by which implied powers may be exercised when "necessary and proper" to carry into effect the expressly granted powers? To bring it within this clause, it must be assumed that acquisition cannot be complete without political legislation; and that the latter is not merely an auxiliary by which the territory acquired may be better used or improved for every proper purpose, after being attained, but that it is "necessary and proper" to the attainment itself. Certain it is, that the moment a treaty of cession is ratified the act of acquisition is complete, and the territory becomes *ipso facto* a part of the United States. Legislation cannot change its tenure, nor make it more nor less than the treaty has made it. The treaty-making power has performed its function, and accomplished the purpose for which it was destined. The disposition of the territory acquired is quite another question, and must be determined by other provisions of the Constitution.

I have been forcibly struck with many of the extraordinary opinions which have marked this discussion, respecting these *incidental or implied powers*, and which are confidently advanced, in utter disregard, it seems to me, as well of the language as of the spirit of the Constitution.

The implied powers of Congress are granted in the following words: "The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." It is to be observed that these implied powers are granted only to Congress, and belong to no other department of the Government. The treaty-making power does not possess them, and it must exercise its functions only upon subjects directly appertaining to its proper authority. The power is strictly a legislative one. And again, an implied power cannot be ingrafted upon another implied power. The authority is spent when once exercised. It is *to make laws necessary and proper to carry into execution the powers vested by this Constitution.* And it is obvious that, were it not so, Congress would go on step by step, and thus concentrate within itself all the powers of the Confederation and of the States.

In this connection I beg leave to refer to an article in the National Intelligencer of December 22, 1847, with this caption: "Has Congress power to institute slavery?" It is commended by the editors of that paper to its readers as "the calm discussion of an important question, from a source entitled to high respect." It is entitled to this commendation, for it is written with great clearness and vigor, and if the writer was an eminent judge of the Supreme Court from the West, as was stated in the Ohio papers at the time, and never contradicted, no one will deny that the views are entitled to great respect from the talents, character, and position of the author, not less than from the mode in which the subject is treated. The title of the article would seem to confine the discussion to the power of establishing slavery, yet it is in reality a discussion of the authority of Congress over the subject of slavery in the Territories, and a conclusive one, too. It shows that the National Legislature have no right to deal with the question.

It shows also that, in the writer's opinion, there is no power granted to Congress by the Constitution to establish territorial governments. "Such a power was given," he says, "in relation 'to the District of Columbia, and it was equally 'necessary in regard to other Territories." "But 'if the power be implied," he continues, "it must 'be limited to the end in view." Did it confer "complete jurisdiction," and were it "exclusive and universal," as is said, it of course would give Congress the right to legislate over the subject of slavery, to institute as well as to establish or exclude it at their discretion, and over all the other subjects of social or political concern. If it is not "universal," and exist at all, it is limited by the principle here laid down: that is, as it results from the necessity of establishing social order in the Territories, by the organization of governments it cannot be rightfully pushed beyond that object, and if it is, it becomes "despotism." And this is equally true, whether it undertake to say that the condition of slavery shall or shall not exist. That is a question of local concern, not necessary to the establishment of governments, and as such should be left to the proper local authority.

But to the quotation. "The true construction of 'the Constitution is, that implied powers can only 'be exercised in carrying into effect a specific 'power. And this implication is limited to such

'measures as shall be appropriate to the object. 'This is an admitted and safe rule of construction. 'It is believed to be the only one which has been 'sanctioned by statesmen and jurists. Powers ex- 'ercised beyond this are not derived from the 'Constitution, but must depend upon an unlimited 'discretion. And this is despotism. Now, there 'is no specific power in the Constitution which 'authorizes the organization of a Territorial Gov- 'ernment. Such a power was given in relation to 'the District of Columbia, and it was equally ne- 'cessary in regard to the other Territories. But if 'this power be implied from the specific power 'given to regulate the disposition of the public 'lands, it must, under the above rule, be limited to 'means suitable to the end in view. If Congress 'go beyond this in the organization of a Territo- 'rial Government, they act without limitation, and 'may establish a monarchy. Admit that they may 'organize a government which shall protect the 'lands purchased, and provide for the administra- 'tion of justice among the settlers, it does by no 'means follow that they may establish slavery. 'This is a relation which must be created by the 'local sovereignty. It is a municipal regulation of 'limited extent and, necessarily, of an equally 'limited origin. It is a domestic relation over 'which the Federal Government can exercise no 'control. And, above all, the institution of slavery 'is not within any implication which can be drawn 'from the power to regulate and dispose of the 'public lands or other property of the United 'States. As before remarked, slaves are not treat- 'ed in the Constitution as property. They are 'made property by the local law."

And how do the doctrines we have heard advanced respecting this power of implication, repeated, reiterated indeed till they pall upon us, concur with these canons of construction? Let us see.

I shall confine my quotations within narrow limits, and to what has been said in the Senate, though I might extend them almost indefinitely; but the high authorities whence they are derived supersede the necessity of a multitude of references.

"The power," (to govern,) says a Senator of 'distinguished talents and character, "in my opin- 'ion, is implied, among other sources, as has been 'well said, from the right to acquire territory. If 'this right of acquisition is to be implied from the 'necessities of war and peace, or of making new 'States, over which subject Congress has power, 'this necessity of acquisition can only exist on 'account of some end to be secured after it is ac- 'quired. To effect these purposes and ends, the 'territory must be controlled and governed by 'those who acquired it, or the very necessities 'which justified its acquisition could not be met."

The war-making power and the power to admit new States are both Congressional powers, and therefore are proper subjects for the operation of the clause permitting the exercise of powers by implication; but the authority to make peace belongs to the treaty-making power—to the President and Senate, and is therefore not within the reach of this auxiliary provision, and yet they are all classed together as powers of the same nature, drawing after them the same consequences. And not only so, but implication is heaped upon implication, in violation of a rule of construction equally sound in itself, and called for by the language of the Constitution.

"You derive the power to acquire territory," says a member of the Senate, who to other high claims to consideration which we all feel and acknowledge, adds the distinction of having occupied a seat in the Cabinet as the first law officer of the Government. "You derive the power to ac- 'quire territory. How? Not by an express 'grant of power, but by implication from the war 'and treaty-making powers. You derive the 'power to govern the territory acquired. How? 'Not by an express grant; but by implication, as 'necessary to the enjoyment of the territory ac- 'quired, and this power is vested in Congress. 'Why? Because, by the Constitution, all legis- 'lative power is vested in that body; and legisla- 'tive power must be exercised in framing the 'organic law of the territory."—*Mr. Berrien, vol. 1, p. 875.*

Here, sir, we have the same power of implication, extended beyond its constitutional limits, as a foundation for the exercise of Congressional authority, and embracing the treaty-making power in its operations, and we have also this duplicate implication, equally dangerous and unconstitutional; and not only so, but we are told that Congress has the right to legislate over the Territories, not because that right is found in the Constitution, but because *all* legislative power is vested in that body, and this is a legislative power that *must* be exercised. If by this it is meant that Congress is vested with all the legislative power granted by the Constitution, it is a truism that will find no opposition, nor was there any necessity of impressing it upon us in a series of formal propositions. But it does not aid this process of demonstration: for it leaves as it found the question of Congressional jurisdiction; which, whatever may be the necessity, can only be exercised when it is granted, and as it is granted.

I am at a loss to know what is meant by the "enjoyment of the territory" as a foundation for the *power of governing it.* The enjoyment of property depends essentially on the power to sell it and regulate it, that it may be used. This power is expressly given by the Constitution, and if it were not given could no tbe exercised by the limited government created by it; unless, indeed, we suppose that the clause for that purpose is a mere work of supererogation. If, therefore, this power required a special clause creating it, *a fortiori* the power to govern people living on the property required a similar creative act; as assuredly the right to sell and regulate is not less necessary to its enjoyment than the right of political legislation; especially as the power to "make rules and regulations" gives all the requisite control over individuals to prevent their interference with the enjoyment of the property by the United States.

And this is precisely what another speaker, the same indeed who draws the comparison between the power of an employer and the power of government, entirely overlooks, when he says that the right of acquisition gives the right of government; and asks, with evident self-satisfaction at the irrefutable nature of the argument which the question conveys, "For what purpose does any man acquire property but to govern it? Why does a buyer pay for it if it be not the right to dispose of it?" "to govern it [the property] as a property-

holder?". And what has that to do with political legislation over numerous communities? His right of government is what others call the right of enjoyment. The Constitution gives this right, and therefore it exists. But it does not give the other, and therefore it does not exist; for it would baffle human ingenuity to discover any principles applicable to either and not to both, which would justify this difference in the right of Congressional action. The reason why one was omitted and the other provided for, is probably to be found in the circumstances to which I shall hereafter refer, connected with the passage of the ordinance of 1787. If it is a *casus omissus*, the people alone can supply the omission; and if in the mean time their representatives act, they can act only from the necessity of the case, and upon their responsibility to their constituents.

Judge Story says: "As an incidental power, the constitutional power of the United States to acquire territory would seem so naturally to flow from the sovereignty confided to it as not to admit of very serious question."

This phraseology does not clearly indicate what the learned Judge meant by the *constitutional power of the United States to acquire territory.*

The power of the United States to acquire territory, if by the United States is meant the people, no one doubts; though some have doubted whether they have made provision for that purpose in the Constitution. It is in no sense of the term an incidental power, but a direct one; nor does its existence depend on the Constitution, though its exercise does. If granted, it may be put in operation by the proper department; if withheld, the people may provide for its exercise whenever they see fit.

But if by the United States is here meant the Government, its *constitutional power* should be deduced from the Constitution itself—from the treaty-making power, for instance, or some other, and not assumed as an incident of the sovereignty of the nation. Nor should that sovereignty be considered as *confided to the Government.* A loose expression for a high judicial functionary. It remains with the people; and as the word itself is not to be found in the Constitution, so no powers can be deduced from that instrument, nor from the condition itself, because they are considered as the incidents of sovereignty. There are rights, indeed, which are assumed; and powers granted, because we are sovereign. But the exercise of these rights and powers we are to seek in the Constitution itself; and if they are not to be found there, the people, the true sovereigns, have retained them in their own possession.

As to the power of acquisition, it seems to me not to be an incidental one at all. It is a direct one; directly included in the power to make treaties. It is no more an incidental one than is the power to make a commercial treaty, a treaty for navigation, a treaty of peace, or a treaty for any other purpose required by the intercommunication of nations. If a right to make treaties for these purposes, or a treaty of acquisition, is incidental merely to the treaty-making power, nothing remains for the original grant to act upon. The general provision gives nothing, and is valuable only for the incidents it brings with it.

But, sir, this power to make treaties and to acquire territory, however far it may be carried, either directly or by necessary implication, if we assume that implication belongs to the treaty-making power, is not a sufficient foundation on which the action of Congress, in legislating for the Territories, can rest. This origin of the power will not justify the exercise of it which we find in the statute books. This is not the true solution of the difficulty, for it leaves untouched all the early and much of the later legislation of Congress to be justified by some other provision of the Constitution, or not to be justified at all. Within the original limits of the United States nine Territorial Governments have been established, five in whole and one in part north of the Ohio, and three south of that river, and all but one of them since the adoption of the present Constitution. The region of country embraced by these Territories was no more acquired by treaty than was the State of Virginia; and indeed a considerable portion of it was an integral part of that State, and the residue made parts of various States —from Connecticut to Georgia being included within their chartered limits. It was no acquisition in any sense of the word. In 1776 the men of the Revolution rejected the authority of England, and assumed the position of independence as their right, and maintained it, too, by exertions and through trials almost without a parallel in the struggles of oppressed nations. And when the end came, and came happily for them and for us, and for those we may well hope, who are to come after us, they treated with the British Crown as equals, and utterly rejected every proposition for a grant of independence, absolute or conditional. "America does not ask it of you," said M. de Vergennes to the British Minister, in the presence of Dr. Franklin; and in this spirit was the treaty concluded "between His Britannic Majesty and the United States of America," and contained a simple recognition of their independence as an existing nation. And this recognition by England no more conferred independence than did the recognition by France, or Spain, or by any other Power. All these acts were merely the acknowledgments of a national condition already existing, which they could neither create nor destroy.

If, then, the country over which various Territorial Governments were organized and Congressional legislation exercised was not acquired by treaty, but made part of the United States on the 4th July, 1776, the day when they *assumed* their equal station among the nations of the earth, and years before any treaty was concluded, it is very clear that the treaty-making power, including in its operations the power of acquisition, could not confer upon Congress any constitutional authority to legislate under these circumstances. I am aware that these considerations do not touch the acquisitions made in Louisiana and subsequently without the original limits of the United States. These are cessions obtained by the treaty-making power; and did they compose our whole territory, the deduction of the right of legislation from the right of acquisition, would at any rate be sufficiently extensive in its operation to cover its whole exercise by Congress.

But we are seeking the foundation for the exercise of a great political power by the National Legislature under the Constitution, and it will scarcely be denied that any one which is not sufficiently extensive for the whole Congressional

action, can neither be the true one nor the one from which Congress itself has derived its authority over this subject. The cause, to compare moral with physical investigations, is not proportioned to the effect. I have found but two speakers who seek to draw any distinction between original and acquired territory. All else who have participated in the debate, and who contend that the right of acquisition carries with it the right of political legislation, have referred to the whole action of Congress indiscriminately, from the passage of the ordinance of 1787, and have supported it by this view:

"Under the last clause," (the power to make needful rules and regulations,) says the Judiciary Committee of the Senate, in their report of January 9, 1849, "or under the power to govern, which is necessarily implied in the right to acquire, Congress has passed laws to organize the various Territorial Governments which have from time to time existed within the limits of the United States."

Here no distinction is drawn between original and acquired territory. The phrase is: *the various Territorial Governments which have been organized within the limits of the United States.* By the derivation of the right to legislate from one or the other of the two sources mentioned, it is not intended to apply one power to new, and the other to old, territory; for, if the first is valid for the purpose of Government anywhere, it is valid for that purpose everywhere, wherever the United States possess territory, no matter how acquired. When, therefore, the committee apply it to the old territory as the foundation for the exercise of the power of government, they equally apply it to all territory, and any further investigation of this point becomes unnecessary. The disjunctive is merely for the purpose of expressing a doubt as to which of these powers, the right to *acquire*, or the right to make *needful rules and regulations*, gives to Congress political legislative authority over the territory of the United States; a doubt which commenced with the first opinion of the Supreme Court, and which time and investigation have done nothing towards removing.

And I find the same extensive application to the whole territory of the United States of the power of legislation as the consequence of the power of acquisition, in the opinions of the Supreme Court, and in the views presented by almost all the speakers, and among others, by a distinguished Senator from South Carolina, who considers that the "right to govern the Territory is derived from the right of acquiring territory."—*Mr. Calhoun, vol.* 1, *p.* 870.

One of the speakers, however, to whom I have alluded, and who makes a difference in Congressional power, as it operates upon old or new territory, justifies the exercise of legislation in the latter case by this right to acquire and then to govern, and in the former by that provision of the Constitution which guaranties the "debts and engagements" of the old government, contends that the ordinance formed an "engagement" within the meaning of the Constitution, because, as he says, it was "*declared to be a compact.*"—[*Mr. Murphy, vol.* 1, *p.* 579.] Admitting, for the present, what I shall contest by-and-by, that this ordinance has the characteristic of a compact, still the difficulty is before us, and we have a large extent of "territory" where this power has been exercised, and which was neither "acquired by treaty" nor the subject of a "compact," formed by the Confederation, and recognized by the Constitution. The Southwestern Territory, now the State of Tennessee, and the Alabama Territory, now the State of Alabama, and the Mississippi Territory, now the State of Mississippi, were all governed by Congressional legislation, under the Constitution, and were never governed by the Confederation. Whence came the power over them? Not from the deeds of cession, for no bargain between the United States and a State can enlarge the powers of Congress. We have still to find a general origin of this power, co-extensive with its exercise, or we have to find a third justification of it by a more diligent search of the Constitution.

If the views contended for are correct, we are driven to the conclusion that the framers of the Constitution made one indirect arrangement by way of recognition for the exercise of legislative jurisdiction over a portion of the existing territory, while they left a portion without any arrangement at all; and at the same time, with a perversity of forecast difficult to believe and impossible to explain, they looked forward to distant acquisitions, and made ample provision for their government.

3. Another assumed ground for the exercise of this power is the right to admit new States.

"The purpose," [of the right of government,] says a member of this body, "is to train up a nation of freemen, and to fit them to share in the privileges of this Union. Whatever is necessary to this object Congress is authorized to do."—*Mr. Berrien, vol.* 1, *p.* 875.

For myself, sir, I take it that the reason for the exercise of this power of government by Congress, is simply that the Territories may be governed, and not left without political organization, and as there are no means provided for the institution of a government by the people of a territory, Congress has interfered to attain that object.

I have already referred to the opinion of another member of this body; but the course I am pursuing requires that I should extend the quotation, as he adds the weight of his authority to this derivation of the power of Congress:

"There are two purposes," he says, "for which territory is held; * * * * "the disposition of the soil, and the erection of new States. Now, the right of governing the Territory is necessary to the efficient exercise of both objects." * * * He then states "that the most important is its settlement and erection into new States. To train up these infant communities under such institutions as may fit them to become members of our Confederacy is an object of the highest importance." And he adds, that Congress is "divested of the power of government when the infant community arrives at its majority—when it is strong enough to assume the responsibilities of a sovereignty, and comes as a State into the Confederacy."

Let me remark here, sir, that the phrase "erection into new States" is not to be found in the Constitution. The constitutional power is to "*admit* new States into the Union." This is not a mere verbal criticism, but the correction of a grave error, connected with the fundamental principles of our Government. The power to create States belongs to the people who inhabit them; the power to admit them into the Union belongs to Congress.

The power of legislation is here deduced from analogical views, furnished by the conditions of youth and manhood in natural life, and by their application to the lives of communities.

Analogy never presents a very safe ground of argument, and least of all in constitutional discus-

sions, which should be marked by severity of investigation rather than by brilliancy of imagination. I have lived under territorial governments the greater part of my active life, and I had to learn till now that they had any peculiar Congressional training which prepared them for their political transformation. Their training comes to them, as it comes to all other American citizens, by experience, observation, and reflection. "Train up a child in the way he should go, and when he is old he will not depart from it." This paternal injunction has no place here, and least of all is it the foundation for the exercise of this great power. The Territories may be young, while the citizens inhabiting them may be and are of mature age, and as intelligent as any in the Union. I am surprised, is yet the frequent remark of the traveler from the Eastern States—and formerly it was the universal one when visiting the western country—I am surprised at the respectability and intelligence of your people. But while he pays this equivocal compliment—intended, however, to be unequivocal—he forgets the fact that this population necessarily possesses those elements of enterprise, of progress, and of improvement which enter largely into the intellectual advancement of a community—that many a man sinks into apathy at home who would be roused into active exertion by the change which emigration brings with it, and that he who exchanges the comforts of an old society for the hardships of a new one, and commences a war with the forest, which, if victory comes, it comes only with time, and suffering, and labor, must possess some claim to consideration, even from those regions of our common country where the great work of settlement and improvement has been done by generations which have passed away.

Now, sir, this application of the principles of the physical growth and intellectual development of youth to the progressive advancement of political communities, is happily conceived and forcibly expressed for certain purposes of ethical illustration. But wherever its true place may be, that place is not here; and yet, it comes from one of the ablest and most accomplished men among us, to whom we all and always listen with pleasure. There is no question of natural or moral strength, or of majorities or minorities, in the lives of our territorial communities. Their first organization, as we have seen, was under the old Confederation, when each State had one vote in Congress. It would have been equally impolitic and unjust to give to a new political body one-fourteenth part of the power of the Union, unless it contained a number of inhabitants bearing some reasonable proportion in population, and consequently in its capacity to sustain political burdens, to the older members of the Confederacy. Sixty thousand was assumed as that number; and when a Territory attained it, it was entitled to claim its admission into the Union; not because it had reached its majority, or had been trained to its new duties; for the right came by numbers, and not by time and knowledge, and might be exercised the first year, as well as the twentieth year, if the required population were there to demand it. The first ordinance, that of April 23, 1784, illustrates this view. It declares:

"That whensoever any of the said States shall have, of free inhabitants, as many as shall then be in any one, the least numerous of the thirteen original States, such State shall be admitted by its delegates into the Congress of the United States, on an equal footing with the said original States," &c.

Ohio was trained, as it is called, thirteen years, Indiana sixteen years, Tennessee six years, Louisiana seven years, and Iowa nine years; and while Alabama, more precocious than her sisters, required but two years of Congressional education, Michigan and Arkansas, it would appear, the least gifted of the family, each lived the life of a scholar for almost one-third of a century—the former having been trained for thirty-two, and the latter for thirty-three years. But unfortunately for this analogical illustration, the Territories legislate for themselves. Congress organizes the governments, and the machinery goes on with little more relation to the Congress of the Constitution than to the Congress of the Confederation.

Mr. Justice Johnson inclines also to the opinion that the right of acquisition may be derived from the power to admit new States, though he does not express himself confidently upon the subject. He says: "The right, therefore, of acquiring 'territory is altogether incident to the treaty-'making power, and *perhaps* to the *power of ad-'mitting new States into the Union.*"

If the right to admit new States gives the right to acquire territory before it becomes a State, with a view to its government by Congress, in order that it may be admitted into the Union, it seems to me that many other constitutional powers of Congress would equally justify foreign acquisitions, in order that these powers might be exercised over them. Because you can admit new States, therefore you can acquire territory wherein to form them. Because you can lay and collect taxes, &c., therefore you can acquire territory where they may be levied and collected. I am speaking, as Judge Johnson was speaking, of the incidental and not of the direct power of Congress. The direct power of admission makes no distinction between foreign and domestic States, and therefore sanctioned the annexation of Texas. But, if Texas had been a colonial possession, and we had sought to acquire it before its admission, we must have found some other provision of the Constitution than this, to justify such action. In the one case the act of admitting is the exercise of a direct power; in the other, the act of acquiring is for the purpose of admission, and is, therefore, an incident which precedes, if I may so speak, instead of following, the power to which it is incidental. The derivative operates first, not as a means to aid the operation of the principal, but to call the principal into existence, by furnishing the subject, without which it could not be exercised. *This proposition is not in the book of the Constitution*, nor justified by its spirit or objects.

4. The right to sell.
5. The right of ownership.
6. The right or duty of settlement.

Each of these rights is assumed and advocated as a justification for the exercise of "complete jurisdiction" over the Territories; and I place them together because they bear a near relation to one another.

I have sought in vain, in the earlier opinions of the courts and in the views of the commentators on the Constitution, any support of the doctrine that the rights of sale or of ownership necessarily carry with them unlimited jurisdiction over the country

to which they are attached. It is one of the discoverics which we owe to this prolific controversy, and has been urged with a good deal of zeal both here and at the other end of the Capitol.

A member of this body, in speaking of the disposition of the soil and of the admission of new States, says:

"Now, the right of governing the Territory is essential to the efficient exercise of both powers. If the soil is ours, to be sold and settled, we must have the means of preventing trespasses and keeping the peace upon it. The rights of property vested in the States would not be secure, if they were dependent upon any other authority than an agency of their own for the preservation of peace and order upon the domain."

So far, sir, as respects the security of the property of the United States, (I find it United States in the Constitution, and not States,) which is here urged as a reason for the exercise of the general power of political legislation, such property is perfectly safe, without calling into question any constructive interpretation. The power to make needful rules and regulations respecting the property of the United States gives to Congress full authority to adopt any proper measures to protect it, and to secure its enjoyment till "disposed of." This very object is incontestably one of the principal ends to be attained by this clause. Any act which interferes with the use of the public property may be and is punished under it; and wherever it occurs, whether in States or Territories, without the slightest reference to general jurisdiction. No man calls in question the right of Congress to establish "tribunals for" the trial of these cases wherever they happen; but certainly one may well call in question the exercise of general jurisdiction to protect public property, expressly protected by a part of the very clause which gives rise to this extended construction.

As to the guarantee which the speaker invokes as a reason for the exercise of political power by Congress over the Territories, I do not understand it at all. I know of no "guarantee" which enters into the sale of the public lands to operate after they are sold, except the assurance of title; and that, if it exists, is a *virtual* and not an express condition, as neither the patent nor the laws under which it is issued contain any stipulation to that effect. The protection of the land after it is sold is wholly independent of the sale itself, and imposes no more obligation upon the United States than would the protection of the life of the purchaser.

In the neighboring hall, it was said:

"Now what are 'the needful rules and regulations, which Congress may make fairly incident to our territory as property? To dispose of or sell the public lands is the primary object. But can this be done without a government, which will assure the title to the settler, and protect the purchaser in the quiet and peaceable possession of the property we sell to him?" And therefore from the power to sell, the speaker deduces, as an "incident," the right to legislate, and says: "In this way I justify the legislation of Congress, which, in all times past, has set up a restrictive government in the Territories."—*Mr. Rhett, vol. 1, p. 656.*

Now, sir, I shall not deny that the value of the public lands is increased, and their sale facilitated by the establishment of social and political order, wherever these lands are found. Order is one of the elements which enters into the computation of the value in the mind of the purchaser. But an implied power, as we have seen, must bear a fair relation to the specific one, and be exercised only when "necessary and proper" to carry a specific power into effect. Certainly, to maintain that any power may be assumed by Congress, which would render more easy or more profitable the exercise of another power, would be a strange perversion of constitutional authority. "To borrow money" is one of the powers of Congress, and a law which would render highly penal the employment of capital in private enterprise, for a year, or two years, or any longer time, would certainly ensure the desired loan quicker and cheaper than it could be procured without such provision; and, indeed, the object might be unattainable without it. But I suppose no one would push the doctrine of constructive power so far as to justify such legislation. And so with respect to the public land; the means proposed bear no fair relation to the object of the express grant of power. The vicinity of the Indians has greatly retarded the sale of the public lands. May they be driven from their possessions for the mere purpose of increasing the value of "our property" in their neighborhood, and of promoting the sale? I do not speak of the right to make war upon them to repel their own incursions with its just consequences, but of the act of forcible expulsion from their country, merely to add to the value of ours.

But what becomes of the *majors* and *minors*, *the greater and the less*, and all the syllogistic rules about which we have heard so much in this discussion, when the power to manage property is made to include all legislative power whatever? All legislative power, if intended, might have been granted, and no controversy could have arisen; for it would have included all that this clause grants, as well as all that the extreme supporters of Congressional authority contend for by a remote and indefensible implication. The Constitution conveys a very restricted grant of power; and by some kind of constructive *legerdemain*, the restriction disappears, and the power to dispose of and regulate property changes into an unlimited jurisdiction over all the objects of legislation, animate and inanimate. If this be so, constitutions are not worth the paper on which they are written.

Sir, I have admitted that order increases the value of the public land, but I do not admit that the land could not be sold without its previous legal establishment. We all know it would be. We all know that an American community, wherever situated, if left without a government, would establish one for themselves. We all know that adventurers would purchase land under such circumstances, though not as rapidly as under others. We know they would have purchased in Oregon, had land been offered for sale there, before they had a government by Congressional action. And who doubts that the land may be sold in California which our tardy legislation has not yet reached? This appeal to first principles, with the power to apply them practically to the preservation of society, is one of our marked national characteristics, exhibited upon many trying occasions, from the Rock of Plymouth and the beach of Jamestown to the shores of the Pacific. I do not say that a community should be left in this situation. On the contrary, it is a trial that ought to be avoided, and has been avoided, by legislation originating in a strong moral necessity. I merely seek by these remarks to do that justice here to one of the great characteristics of our countrymen, the power to establish and preserve social order, which begins to be done abroad

—which, among other comments, written in a better spirit than usual, has drawn from a late leading London journal the avowal that "an American emigration carries along with it the seed of its own national institutions, which begin to germinate as soon as ever it has found a permanent resting-place in a new soil."

But, sir, what is the fact? To establish legal order is said to be essential to the sale of the public lands, and therefore is a power to be exercised by Congress. *It justifies*, says a forcible speaker, *the legislation of Congress upon the subject of the Territories.* How is this, sir? The principle is not comprehensive enough to cover the action which has taken place. Congress has legislated over extensive regions as large as some of the original States, where there was not an acre of public land—over what is called New Connecticut, being the northeastern portion of the State of Ohio, extending 120 miles east and west by an average of almost fifty miles north and south, and reserved by the State of Connecticut to its own use in the act of cession, and "disposed of" by its authority. Over the extensive tract between the Scioto and the Little Miami, also in the State of Ohio, reserved by the State of Virginia to satisfy the land warrants she had issued for revolutionary services, and amounting both together to one-third part of the area of the State; over seven-eighths of the State of Tennessee, disposed of in the State of North Carolina; over one-fourth part of the State of Louisiana, one-fourth part of the State of Mississippi, and much of Missouri and Florida. I am aware it may be said that where tracts of public and private land are in juxtaposition, it would be very inconvenient to exercise jurisdiction over the one without extending it over the other. Granted; but, even if Congressional power could be assumed for such a reason, the suggestion does not meet the cases where the public land is entirely separate from the private, and where the two form different regions without any necessary connection.

But, sir, this assumption of necessary action which claims for Congress the right of entire legislation over the Territories, is met and refuted by the fact that Congress, from 1787 to this day, has never exercised any such power; and, therefore, its exercise is not necessary in order to dispose of the public land. I have already adverted to the great difference, both in principle and practice, between the right to organize governments and the right to exercise full legislative jurisdiction, endeavoring to show that whatever justification, whether from necessity or construction, there may be for the former, there can be none for the latter. I have remarked that in the various speeches, decisions, and essays, which touch this general question, there is no established distinction preserved between the exercise of these powers, the one or the other being often referred to in convertible terms; and one of our ablest members thus states the question:

"Has Congress the right, under the Constitution, to legislate for the territory of the United States, organize governments for the inhabitants residing therein, and regulate within it all matters of local and domestic concern? I believe this question [not questions, the speaker evidently considering the power as one and the same] can be satisfactorily answered in the affirmative.—*Mr. Dix, vol. 1, p. 862.*

And yet it is very clear that the preservation of legal order being the object to be attained, as a constitutional justification for the action of Congress, if this has been attained without the exercise of the power to regulate "all matters of local and domestic concern," then the fact is decidedly shown that such general power is not necessary to the sale of the public land, such land having always been sold without it. The Territorial Governments have in all cases conducted the internal affairs of the Territories; and not one single instance of legislation by Congress can be produced, providing for the punishment of offences in the Territories, except, indeed, in those cases arising out of its peculiar jurisdiction, conferred by the Constitution, and which applies equally to them and to the States. That peace and good order, which gentlemen consider so essential to the sale of the public land, have been preserved by Territorial, and not by Congressional legislation. I repeat emphatically, that not a single exception to this proposition is to be found in the statute-book. There are, indeed, some half dozen provisions concerning civil rights, which have no relation to the fair power of establishing a government, but belong to the internal domestic affairs of the people themselves, which may be found in the ordinance of 1787, and in the subsequent action of Congress. But waiving, for the present, the objection in principle to their introduction, and granting that Congress knew what was for the benefit of the people better than they did for themselves, and that these instances of their interference were wise, and wisely conducted, still no man will contend that they were necessary to the preservation of order, or that the attainment of that object alone justified their introduction.

Adverting, now, to the right derived from ownership, it is said emphatically, if not satisfactorily:

"I want, therefore, no other foundation for legislating over the Territories, than the fact of ownership in the United States. Grant this, and all is granted."

And then follows another analogical argument, gravely establishing the existence of a power independent of the Constitution:

"If I own a farm or shop, I may, as owner, prescribe the conditions of its transfer to another. If he does not like my conditions, then let him abandon the negotiation; if he accede to the conditions, then let him abide by them, and hold his peace."—*Mr. Mann, vol. 1, p. 833.*

Piling Pelion upon Ossa, the case of a manufacturing company, seeking to exclude ardent spirits from its establishment, thus fortifies the conclusion:

"Have they not a right, from the mere fact of ownership? Would any lawyer doubt the validity of such a condition, or would any sensible man doubt its wisdom and humanity?"—*Same, p. 833.*

An individual has any right, which the law gives him, to annex conditions to the sale of his property. Ergo, the Government has an unlimited right of jurisdiction, civil and criminal, over the Territories, from the mere fact of owning a portion of the land lying within them, and without any constitutional grant of power, for that is disclaimed by the terms of the proposition. Q. E. D. I do not introduce this argument with any expectation of refuting it, or of lessening its force. Both the one and the other are beyond my power. As a western man, however, living when and where the credit system for the sale of the public land once prevailed, I rejoice that Congress did not sell the land upon condition that every purchaser who

did not make a payment the day it was due should suffer death and "hold his peace." Had this been so, I might not have been here this day to draw your attention to these considerations, so forcible in themselves, and so forcibly expressed.

Another gentleman urges the same reason, but in less exceptionable terms, and condenses his view into a proposition, instead of elaborating it into an argument:

"The fact of ownership imposes on Congress the task of government. There was no need of any grant of power."—*Mr. Woodward, vol.* 1, *p.* 850.

With regard to the right or duty of settlement, and its consequences, it is in a decision of a Louisiana court, quoted with approbation by a Senator from Florida, that the doctrine is thus stated:

"Now, a very needful regulation, with regard to the land of the United States considered as the subject of property, is to provide for its settlement. The individuals who are to settle on it must be designated, [Query; but it is thus in the quotation,] and when there must have been some kind of government given them," &c.

I do not understand whether this act of settlement is considered by the court as a right or duty; nor, whichever it may be, whether it results from the Constitution or from the natural obligation of settling and cultivating the earth, as laid down by the elementary writers. If from the former, the court should have indicated the clause, which I have not been able to discover; unless, indeed, it is but a paraphrase of the power to dispose of the public property; and in that case it would have been far better to state the proposition in constitutional language, and thus divest it of one uncertainty the more. If, however, it is the elementary obligation to which the court refers, I have only to say that to seek one power in that source, and then another to support the first, and both equally out of the Constitution, will certainly find few advocates here. I dismiss the proposition without further examination.

Mr. CASS, without concluding, gave way, at the suggestion of Mr. CLAY, to a motion to adjourn; but the Senate went into Executive session, and, after some time spent therein, adjourned.

TUESDAY, *January* 22, 1850.

Mr. CASS, having the floor, resumed and concluded his remarks upon the subject of the Wilmot Proviso, as follows:

Mr. PRESIDENT: Thanking the honorable Senator from Kentucky for his kindness in moving an adjournment yesterday, and tendering my acknowledgments to the Senate for the patience with which they listened to my constitutional argument, I shall resume the discussion at the point where I closed my remarks, and proceed in the course of argument I have marked out for myself.

7. The right of sovereignty.
8. The nature of government.
9. Nationality; and,
10. The principles of agency and trust each furnish reasons for the exercise of this power.

Judge Story says:

"As an incidental power, the constitutional power of the United States to acquire territory would seem so naturally to flow from the sovereignty confided to it as not to admit of very serious question."

"But the United States (says one of the speakers) is not merely a landowner; it is a sovereignty, and, as such, it exercises jurisdiction over all its territories."—*Mr. Mann, vol.* 1, *p.* 833.

"I consider this unrestricted power (says a distinguished member of this body, now retired to private life) as an inseparable incident to sovereignty," &c.—*Mr. Dix, vol.* 1, *p.* 862.

"Now we had the power to acquire territory," (says another,) * * * * * * "and also as an incident to sovereignty."—*Mr. Murphy, vol.* 1, *p.* 580.

"I contend (says another) that Congress has that power. I contend it has that power from the nature of government, and from the nature of all governments."—*Mr. Rockwell, vol.* 1, *p.* 791.

And others follow, presenting similar views:

"The power to acquire and govern is one possessed by all nations."—*Mr. Stuart, vol.* 2, *p.* 178.

"This power results from our nationality."—*Mr. Berrien, vol.* 1, *p.* 875.

"I said the Government of the United States was a trustee for the great purpose of maturing the growth of a State, and that the citizens of the United States were the *cestui que trust.*"—*Mr. Pettit, vol.* 2, *p.* 162.

"As agent of the United States, government must be regarded as a trustee."—*Mr. Yulee, vol.* 1, *p.* 304.

"We repose it in them, [this power in Congress,] because they are the agents of the States."—*Vol.* 1, *p.* 903.

"The United States possess not simply the right of ownership over the Territories, but that of exclusive dominion or sovereignty; and hence it was not necessary to exclude the power of the States to legislate over them, by delegating the exercise of legislation to Congress. It would have been a work of supererogation."—*Mr. Calhoun, vol.* 1, *p.* 869.

I have grouped these reasons together because, though there are considerations which are not applicable to them in common, there is one general feature which they all obviously present, and which is well worthy of passing notice.

It is impossible, sir, to contemplate these various propositions, and the arguments and illustrations, indeed, with which the whole discussion abounds, without being amazed at the facility with which the very first principles of our Constitution are overlooked, and the tendency they exhibit to attribute powers to the government because it is a government, and not because they are granted by the people, and thus to prepare the way for the dangers of consolidation. It seems to be entirely forgotten, or disregarded, that the Government of the United States exists by virtue of a written compact, where, and where alone, its powers are to be sought and found, and that these powers are not only strictly defined, but carefully limited by that emphatic declaration, which, in *reserving to the States respectively, or to the people, all powers not delegated to the United States*, says, to all the functionaries of this government, "thus far may you go, but no further."

Many of the doctrines we have heard here are only to be maintained by the assumption that Congress is a general depository of the legislative power of the country—a kind of reservoir, holding all that is given, and all that can be taken; that it possesses certain defined powers, and beyond these some general undefined right of action, as "sovereigns of the country," recipients of all the authority which, agreeably to the elementary writers, results from the "nature of government;" "representative of its nationality;" "agent and trustee of the States;" all which is to be brought into exercise when circumstances may seem to require it. Now, sir, there can be no greater political heresy than this. There is no general grant of the right of legislation in the constitution. Its provisions on that subject are as cautious as they are wise and clear. "All legislative power HEREIN GRANTED," says our charter, "shall be vested in a Congress," &c.; and then after some necessary provisions, concerning its composition and proceedings, comes

the authority to act, in these words, "Congress shall have power"—"To lay and collect taxes," &c., followed by the other objects of national legislation, and concluding with the right *to make all laws which shall be necessary and proper, &c., to carry into effect the enumerated powers.* Here there is no recognition of sovereignty in Congress, nor, if there were, is there any grant of power attached to that condition. All this is an interpolation; and were it not that it is one of the pregnant signs of the times, evincing a proneness to seek out of the Constitution the powers of government which ought to be sought for only within it, and the more dangerous when exhibited by high men in high places, it would not seem to call for grave refutation. But the heresy has a still wider range. Who gave to Congress the attributes of sovereignty, or any legislative rights resulting therefrom, not to be found, expressly, or by necessary implication, in the Constitution? In the people of the United States resides the sovereignty of this country, and no department of their government can claim that high prerogative, nor assume any functions arising out of it not to be found in that great act of the people which brought them into political existence. The elementary writers, Grotius, and Puffendorff, and Vattel, and if not their predecessors, their successors in this branch of knowledge, seem to have been explored and exhausted, and all the curious learning about "sovereigns" and "sovereignties" in their entirety, "and divided," "the empire or right of command," "the eminent domain," "whole or half superiority," "ultimate dominion," and much more of the same sort, has been pressed into service in this controversy, involving only a question of domestic power. As to our relations with the other nations of the earth, we are sovereign and entitled to exercise all the rights which, by the usage of the world, belong to that position. The writers upon international law are very good authorities to ascertain what these rights are, but very bad authorities to ascertain how and how far they are to be exercised by any particular department of our Government. You may go to these elementary writers, or to the decisions of the courts, if you please, to determine the various rights which the condition of sovereignty brings with it; but you must go the Constitution to determine whether the people have given to any department of their government the necessary power to exercise them. There we shall find the manner in which our relations with foreign countries are regulated, and the power vested in the Executive, and in one or both of the branches of Congress to carry into effect the constitutional provision. These they possess, and no others. The fallacy of all this is obvious. Certain rights, by the consent of mankind, belong to every independent nation. In the governments of the Old World, all of which, till after the lesson of 1776, were themselves the sovereign, as most of them are yet, these rights or attributes might all and at all times be exercised. But between their possession, and the power to exert them, there is in this country a wide difference. The attribute may exist; but if the Constitution does not provide the means for its exercise, no authority but that of the people can call it into action. If there had been no constitutional provision for the declaration of war, for the making of treaties, or for the punishment of offences against the law of nations, who would have exercised these several attributes of sovereignty, and who could assign two of them to Congress, and the third to the President and Senate? No man denies the right of the people of this country to acquire territory; and it has been settled that it may be acquired by the treaty-making power, under the Constitution. But its disposition, after such acquisition, is the object of our present inquiry, and all the writers and writings in the world, except the Constitution itself, and arguments to be deduced from it, are utterly valueless in the decision of this question. It belongs to our domestic polity. The right to acquire is one thing, the right to govern another. The exercise of the one is provided for, the exercise of the other is not; and it therefore belongs "to the States respectively, or to the people." All this may be very inconvenient; but though the argument from inconvenience may be sometimes lawfully used in judging of the extent of an existing power, it has no concern in calling a power into existence, except as it furnishes a motive of action for the proper creative authority.

In that noble State paper, issued by the Legislature of Virginia, and known as the Resolutions of 1799, there are principles laid down, applicable to the Constitution of the United States, which should never be lost sight of when the powers of the Government are called in question. There is in our whole political history, no clearer nor more able exposition of constitutional law, upon points of the highest bearing, than is contained in that memorable declaration.

It is a commentary worthy of the Constitution, and has settled authoritatively the practical application of some of its gravest principles. In nothing is this exposition abler or clearer, than in the views it presents upon the very topics we are now considering. It declares "that if the powers granted be valid, it is because they are granted; and if the granted powers are valid, all other powers, not granted, must not be valid;" and that "whenever a question arises concerning the constitutionality of a particular power, the first question is, whether the power be expressed in the Constitution? If it be, the question is decided. If it be not expressed, the next inquiry must be, whether it is properly *an incident* to an *express* power, and *necessary* to *its exercise.*"

11. The provision of the Constitution which declares that "all debts and engagements entered into before the adoption of the Constitution shall be as valid against the United States, under this Constitution, as under the Confederation," has been relied upon as granting or establishing the power to exercise complete political jurisdiction over the Territories.

The argument is thus urged:

"This ordinance, then, [the ordinance of 1787,] was a compact, an engagement, a contract, between the people of the United States, in their collective capacity, and the people who should inhabit this new territory."—*Mr. Murphy, vol. 1, p. 680.*

A compact is a constitutional engagement. This ordinance, therefore, is rendered valid, so far as regards the Territorial government of 1787, "and this express acknowledgment of this compact by Congress, after the adoption of the new Constitution, as well as the recognition of it by the Constitution, made it binding, ratified it, and cured it of any unconstitutionality under the Confederation

which it might previously have been obnoxious to."—(*Same, p.* 680.)

So far as respects the "express acknowledgment of this compact by Congress, after the adoption of the new Constitution," as I know nothing, I have nothing to say. It has no place in this discussion. The acknowledgment of Congress, even if any were to be found, could not change the constitutional nature of this territorial "compact," as it is called. Its validity must be tested by the Constitution itself, and not by congressional acknowledgments. Territory since acquired (the speaker contents) may be governed in consequence of the right of acquisition, while all the region embracing Alabama, Mississippi, and Tennessee, is a *casus omissus*, for which the Constitution provides no power of government; for I have already remarked that the cessions of the States could not enlarge the powers of Congress.

What I have to say upon this subject I shall say very briefly. In the first place, it is clear to me, from the words and the context and, I may add, from the evident object in view, that the clause respecting "debts contracted and the engagements entered into" has no relation to the exercise of political power.

In the next place, the whole argument is founded upon a palpable error, which the most cursory examination should have detected. The territorial government, established by the ordinance of 1787, was no compact. It assumes no such characteristic in that instrument, though this error has been so general that one of the most distinguished members of this body speaks of the ordinance "*as assuming the form of a compact.*" It assumes to be merely an ordinary act of legislation, "ordained by the United States in Congress assembled," agreeably to the formula then in use. The local government is organized, with all the provisions which concern it, in eleven sections or divisions, which occupy two-thirds of the ordinance, and it would have been perfectly absurd to declare these temporary arrangements "a compact be-'tween the original States and the people and 'States in the said territory, and forever unalter-'ble, unless by common consent." Why, they have been altered time and again by Congress, without the slightest opposition, and no voice has ever been raised to object to these alterations on account of this inviolability. The judges were at first appointed during good behavior. This tenure was afterwards reduced to three years. The legislative council were to be elected by Congress from a list containing double the necessary number, nominated by the House of Representatives. This eventually gave way to a popular election. The governor at first had the appointment of all officers, but the concurrence of the legislative council in his nominations was afterwards required. The delegate to Congress was elected by the Legislature. This election was subsequently given to the people. These changes, and there are many more in the several governments, upon which the ordinance of 1787 operated, are enough to show that they were considered within the control of Congressional authority, protected by no character of inviolability.

What are called the articles of compact are the six last sections of the ordinance, introduced by the declaration, already quoted, *that they shall forever remain unalterable unless by common consent.* They do not contain one word on the subject of a territorial government. They relate to the permanent condition of the country, declaring certain general principles concerning freedom and knowledge, making arrangement for the protection of the Indians, and fixing the boundaries and providing for the admission of new States, and defining their connection with the Union, and providing for the exclusion of slavery. So far, therefore, as respects the government of the territories, organized within the original limits of the United States, these articles form no compact, and they derive no validity from the constitutional clause assuming the engagements of the old governments. If that clause is applicable at all, it is applicable only to the proviso excluding slavery. But it leaves untouched the right of the old Congress to establish governments for the "territory" of the United States, which is the very question whose solution we are seeking in this connection. The assumption that the original territory of the United States was governed under the Constitution *by this compact engagement* is met and repelled by the fact that there was no such compact relating to the government; while, if there was a compact rendered valid by the Constitution, which, among other things, provided for the exclusion of slavery, that gives no authority to Congress to exercise a similar power over other territories since acquired. It was the then existing "compact," if any, which was sanctioned, and there the power was exhausted. Thereafter, the right to exclude depended on the right of unlimited legislation.

But it is all idle to talk about the compacts in the ordinance of 1787. The articles so designated are destitute of the very first elements of reciprocal obligation. There was but one party to them. The other party had not yet come into being, or, rather, the other party was not heard at all; for it was composed of the inhabitants then living in the Territory—the settlers upon the Wabash, in the Illinois country, in the Detroit country, at Green Bay, and at Prairie du Chien. These constituted the counter party then in existence, and this compact was declared binding upon them and their descendants, and irrevocably so; without their consent and without their knowledge. Why, sir, if there had been but one man in that country—and there were many thousands, and among these not a few emigrants from the States—he would not have been bound by a compact he never heard of, and to which his consent was never required, either expressly or impliedly, and much less the people then there. As to making a contract with unborn States and millions, by the simple act of a foreign body, constituting itself one of the parties, and acting for the other, and without any means being provided for procuring their assent in all time, either by the act of the then existing or of any future generation, by an acceptance of the terms held out, or by any other mode, had not our own ears told us the contrary, we might well have doubted whether a man could be found to contend for so strange a doctrine.

Besides the want of parties, there was a total want of power. No man with any regard to himself, looking to the articles of the old Confederation, can deny this, even if we had not the authoritative declaration of Mr. Madison, when speaking of it as a question neither disputed nor disputable, to which Mr. Adams assents. The articles are utterly

silent on the point, and the exercise of the power was an open assumption of authority. If the "engagement," supposing there to have been one, wanted validity, the Constitution gave it none, but left it as it found it. A member of the other House, whose zeal certainly outstripped his discretion when he said, in quoting his previous opinions, that "he had egotism enough to believe his as good as any other authority," and in doing so "that he but followed the examples of the courts in which it was the regular and every-day practice to cite their own decisions," declared also, quite *ex cathedra*, that "he should be able to show, &c., that these six articles of the ordinance were forever binding, unless altered by mutual consent, and that no one in Indiana had ever been 'silly enough' to doubt the validity of the ordinance," (Mr. Pettit, vol. 1, p. 718.) It is not the validity of the ordinance we are now seeking as an ordinary act of legislation, but its inviolability or perpetual obligation. The speaker confounds two propositions entirely different in their nature. Let me ask him if any one in Indiana ever doubted the power of the people of that State to assemble in convention, and to introduce slavery there if they please?—to abolish the English common law, and substitute the Code Napoleon, or the Louisiana code, or even the *coutume de Paris*, which at one time was the law of a part of Indiana, or change the nature of bail for offences, or find a better remedy for the preservation of personal liberty than the writ of *habeas corpus*?—all which are declared by the ordinance to be forever unalterable, but by common consent, or, in other words, they are questions of internal policy, which the people are not sovereign enough to touch without the consent of Congress. I had supposed, till now, that the new States were admitted into the Union on "an equal footing with the original States, in all respects whatever." But if this doctrine of the perpetual obligation of this ordinance be correct, the new States and the old States occupy very different positions in the Union, and the powers of the latter are much greater than those of the former. As a citizen of the Northwest, I object *toto cœlo* to this humiliating difference, and I doubt if the gentleman will find many converts to his opinion in his own State.

In support of his views, he asks where the United States got the title of the public lands, but in one of the provisions of this "compact," which prohibits the new States from any interference in their disposition. Why, sir, the United States got the title of the public lands from the deeds of cession of the States, who owned them, and Congress got the power to sell and control them, not from the ordinance, which, as we have seen by the opinion of Mr. Madison, and which may be seen at any time by a reference to the Articles of Confederation, was valueless for that purpose; but from the constitutional authority to make "all the needful rules and regulations" respecting them, which was introduced to secure this very object.

There can be no doubt, sir, that this form of a compact was given to these important articles of the ordinance, in the absence of all real power over the subject, as having somewhat the appearance of a mutual arrangement, and therefore obnoxious to less censure than a direct assumption of authority would have been. The first ordinance, (for that of 1787 is the second,) the ordinance of April 23, 1784, which, however, was repealed by the other before it went into operation, contained also this declared compact, but in a much more imposing form than it afterwards assumed. It provided, that "the foregoing articles shall be formed into a charter of compact, shall be duly executed by the President of the United States in Congress assembled, under his hand and the seal of the United States, shall be promulgated, and shall stand as fundamental constitutions," &c., &c. I presume this pushing compacts into constitutions for the new States by the sole authority of Congress was afterwards thought to be going a little too far, and the more modest form was finally adopted.

It is a singular commentary on the positive declarations of the inviolability of this ordinance, that at the very time they were made, an act of Congress was passed, almost without opposition, violating this ordinance in a fundamental particular. And we have been told by the chairman of the Judiciary Committee of the Senate, that although the question was raised before the committee, four of the members out of five considered it of no weight, and the bill passed this body without even a discussion upon it. Among the articles of compact was one which provided that there should not be less than three nor more than five States in the Northwest Territory. This power had been exhausted, and the five States admitted into the Union. But a large portion of the territory has been detached from these States, and now forms part of the Minnesota Territory, to be organized into a separate State, or to form part of another, with the country west of the Mississippi. *So much for the irrepealable articles of compact.*

12. While it is admitted that the ordinance of 1787 was "passed by the old Congress of the Confederation, without authority from the States," it is contended, not that the clause respecting "debts and engagements" confirmed it, but that it "had been tacitly confirmed by the adoption of the present Constitution, and the authority given to Congress in it to make needful rules and regulations for the Territory."

These are the views bequeathed to us by an eminent citizen, [Mr. Adams,] who, after filling the office of President of the United States, was taken away in the midst of his labors, as the ancient warriors fell, with their harness upon them. It has been long known that he kept a diary of passing events, and a portion of this record of daily occurrences has been recently taken from the depository, where it had better been shielded by time and dust, and exposed to the light of day by a member of his family. How often has the memory of distinguished men been injured by the zeal of indiscreet friends, who, instead of going backward with a garment to cover them, reveal their infirmities to the curiosity of the world? This revelation will add nothing to the claims (and they are many) which the deceased statesman had to the consideration of his countrymen, founded upon his services, his talents, his acquirements, and his unimpeached probity. Strong prejudices, not to say bitter ones, and a temperament often ill-regulated and always excitable, too frequently interfered, especially when men and measures were closely connected, with that calm investigation so essential to the exercise of a correct judgment. This cotemporaneous record of his feelings and opinions exhibits these traits of character in bold

relief, and is, indeed, a melancholy proof that a vigorous intellect may be overshadowed by strange aberrations, and rendered useless and sometimes dangerous by wayward views, originating in passing impressions, and maintained with characteristic tenacity, and with little respect for the opinions of others.

In this diary, the compromise by which the Constitution was established, and without which it could never have been established, is denounced as "the bargain between freedom and slavery;" and it is pronounced "morally and politically vicious," with various harsh epithets and illogical deductions, little creditable to the judgment of the writer at any time, and least of all at that time, considering the position in the Government he then occupied, and the acknowledged claims he had to still higher distinction.

This condemnation of the Constitution as *morally vicious*, is left upon record by a statesman who sought and enjoyed the confidence of his country in many stations of high honor and responsibility —in more, indeed, perhaps, than any other man of the past generation; whose services commenced about the commencement of the present Government, and continued almost without intermission until his career was terminated by death. At the very time he thus embodied this opinion of the Constitution, he was the second officer of the Executive Department of the Government, and became, ere long, the first; and in each of these capacities, as in many a preceding one, he voluntarily assumed, under the most solemn sanction, the obligation to support this Constitution, thus stamped with the charge of *moral and political vice*. I take no pleasure in the expression of these views. But the document has been given to the country, and, regret it as we may and must, it has already passed into history; and, like all the other materials of which history is composed, it cannot escape the scrutiny, nor will escape the censure, of an age like this. Nor should it. Its tone of moral sentiment is bad. The doctrine and the example are bad. That the Constitution is a vicious instrument is an opinion, it seems to me, that no right-minded American can hold. That its honors and emoluments may be sought and enjoyed, and its obligations assumed by him who considers it liable to this grave censure, is certainly not reconcilable with any elevated standard of morality; nor is the opinion or the example by which position is held under such circumstances calculated to produce a salutary impression upon the American youth. I am sorry to say, there are other portions of this resuscitated paper equally obnoxious to the censure of patriotism and of good taste. How different are its tone and temper from that legacy of true wisdom and patriotism, the Farewell Address—a monument of high moral and political feeling, and of affectionate interest, as well as of practical wisdom, such as no other citizen ever bequeathed to his countrymen.

The one appeals to the better feelings of our nature—to the common "name of American"—and bids us hold on "to the unity of government, which constitutes us one people," by all the motives that belong to the past and the present—to common exertions crowned with success, and to common hopes as bright as, in the providence of God, were ever offered to any people. It warns us also of the mischief of sectional prejudices, and of the danger of sectional questions which "tend to render alien to each other those who ought to be bound together by fraternal affection." And that voice, which now comes to us from the tomb, should speak in trumpet-tones to every American ear, and strike a responsive chord in every American heart, when it calls upon us to "FROWN INDIGNANTLY UPON THE FIRST DAWNING OF EVERY ATTEMPT TO ALIENATE ONE PORTION OF OUR COUNTRY FROM THE REST, OR TO WEAKEN THE SACRED TIES WHICH NOW BIND TOGETHER THE VARIOUS PARTS."

The other———but I will not speak of it as I might well do. Better that it had been entombed, like the ancient Egyptian records, till its language was lost, than have been thus exposed to the light of day. I will place in contact, and that will place in contrast, a few passages from the Farewell Address, and from the Diary of Mr. Adams, and close this ungrateful topic with a few remarks:

The Farewell Address.	*Mr. Adams's Diary.*
"The unity of government, which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence—the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that, from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth: as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your National Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it, accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned: and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts. For this you have every inducement of sympathy and interest. Citizens by birth or choice, of a common country, that country has a right to concentrate your affections. The name of *American*, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion,	"The progress of this discussion has so totally merged in passion all the reasoning faculties of these slaveholders, that these gentlemen, in direct opposition to their premises, without being aware or conscious of inconsistency. They insisted upon it, that the clause in the Constitution, which gives Congress the power 'to dispose of and make all needful rules and regulations respecting the territory and other property of the United States,' had reference to it only as land, and conferred no authority to make rules binding upon its inhabitants," &c., &c. "It is in truth all perverted sentiment, mistaking labor for slavery, and dominion for freedom. The discussion of this Missouri question has betrayed the secret of their souls. In the abstract, they admit that slavery is an evil. They disclaim all participation in the introduction of it, and cast it all upon the shoulders of our old grandam, Britain. But, when probed to the quick upon it, they show at the bottom of their souls pride and vainglory in their very condition of masterdom." "The impression produced upon my mind by the progress of this discussion is, *that the bargain between freedom and slavery, contained in the Constitution of the United States, is morally and politically vicious, inconsistent with the principles upon which alone our revolution can be justified; cruel and oppressive, by riveting the chains of slavery, by pledging the faith of freedom to maintain and perpetuate the tyranny of the master; and grossly unequal and impolitic, by admitting that slaves are at once enemies to be kept in subjection, property to be secured or restored to their owners, and persons not to be represented themselves, but for whom their masters are privileged with*

manners, habits, and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess are the work of joint counsels and joint efforts—of common dangers, sufferings, and successes."

nearly a double share of representation. The consequence has been, that this slave representation has governed the Union. Benjamin portioned above his brethren has ravened as a wolf; in the morning he has devoured the prey, and at night he has divided the spoil.

"It would be no difficult matter to prove, by reviewing the history of the Union under this Constitution, that almost everything, which has contributed to the honor and welfare of the nation, has been accomplished in despite of them, or forced upon them, and that everything unpropitious and dishonorable, including the blunders and follies of their adversaries, may be traced to them."

He is unworthy of the name of American who does not feel at his heart's core the difference between the lofty patriotism and noble sentiments of one of these documents and ———; but I will not say what the occasion would justify. I will only say, and that is enough, the *other* ———, for it is *another*.

"*Benjamin, portioned above his brethren, has ravened 'as a wolf; in the morning he has devoured the prey, 'and at night he has divided the spoil.*" So much for Scripture and patriotism. When translated into plain English, this means that the South has fattened upon the North, as the wolf is gorged with his prey! Lest the apologue should not be sufficiently clear, we are told that *almost everything which has contributed to the honor and the welfare of the nation has been accomplished by the North in despite of the South;* and that *everything unpropitious and dishonorable, including the blunders and follies of their adversaries, may be traced to the South.*

And this judgment is pronounced upon the land of Patrick Henry, and Jefferson, and Laurens, and Rutledge, and Sumter, and Marion, and Madison, and Marshall, and Monroe, and Jackson, and—above all and beyond all—of Washington; and upon the land of a host of other statesmen and warriors, as true and tried as in field or cabinet ever maintained the honor of their country in times as perilous as any country ever encountered and survived.

And yet almost all of good that has been gained by our country has been gained by the North, in despite of the South; while the South has brought upon us all our misfortunes, and upon their *adversaries* all their blunders and follies!!! I suppose this word "*adversaries*," in the vocabulary of Mr. Adams, means the other portions of the Union.

Now, sir, I am not going to mete out to the various regions of this broad land the share of each in the wonderful career in all the elements of power and prosperity into which we have entered, and have, indeed, far advanced. The glory belongs equally to all, and all have equally contributed to obtain it. And still less will I undertake seriously to refute a proposition which if the refutation is not in the heart of an American, he is faithless to the common deeds of the past, and to the common hopes of the future.

I am no panegyrist of the South. It needs none. I am a northern man by birth, a western man by the habits and associations of half a century; but I am an American above all. I love the land of my forefathers. I revere the memory of the Pilgrims for all they did and suffered in the great cause of human rights, political and religious. And I am proud of that monument which time and labor have built up to their memory—the institutions of New England—a memorial of departed worth as noble and enduring as the world has ever witnessed, glorious and indestructible. But while I feel thus, I should despise myself if any narrow prejudices or intemperate passions should blind my eyes to the intelligence and patriotism of other sections of our united country; to their glorious deeds, to their lofty sentiments, to their high names, and to those sacred aspirations, common to them and to us, for the perpetuity and prosperity of this great Confederation, which belong to the past, to the present, and to the future; and whose feelings and opinions are brought here and reflected here by a representation in this hall and in the other, which now occupies and has always occupied as high a position as that held by any other portion of the Union—a representation which does honor to our country in all that gives worth to man, and dignity to human nature.

A few words respecting the constitutional doctrine advanced in this paper, and I shall feel relieved by escaping from its consideration:

"I therefore only said that the ordinance of 1787 had been passed by the old Congress of the Confederation, without authority from the States, but had been *tacitly* confirmed by the adoption of the present Constitution, and the authority given to Congress in it to make needful rules and regulations for the territory."

Such is the ground upon which Mr. Adams places the right of Congress to legislate over the Territories. I have already referred to his views respecting the power to "make needful rules and regulations," which extends that power to everything; and we have here another foundation for Congressional authority as loose and dangerous, so far as I can understand it, as that can be—*a tacit confirmation by the adoption of the present Constitution.* I do not pretend to comprehend with any distinctness what is here meant. All I can make out of it is, that there is some mode of conferring power by the Constitution neither express nor implied, but tacit. I must leave, however, to others to refute the proposition more elaborately, who deem it entitled to more elaborate consideration, and who are more fortunate than I am in comprehending it.

Here I close the inquiry, sir, into the Congressional legislation over the Territories, when tested by the principles of the Constitution. But in the examination of this subject, we are met by the practical exercise of this power for half a century, and by the authority which this legislative construction carries with it, and also by the opinions of the Supreme Court, and of learned expositors of constitutional law, who justify this series of legislation by deductions, drawn indeed from various sources, but uniting in the same general conclusion.

Now, sir, I do not intend to call in question the weight of precedent and authority in the adjustment of controverted questions. They are entitled to much consideration, and experience shows that there is a proneness in human nature to yield even more than justly belongs to them The reverence for what has been is too often the ex-

cuse for what is; and a large portion of the abuses in the world have arisen from this very predisposition to tolerate what has been done, and to believe it has been well done, and ought to be again done. Undoubtedly the certainty of the law, where it exists, is a blessing for any people, though unfortunately it is one to which we have little claim. There are many questions of such a nature, that it is more important they should be settled than that they should be settled in any particular manner; and in the exposition of controverted points, the decisions of courts are looked back to, and received with respect, though not with blind obedience. Sometimes settled principles are unsettled, and changes made in the established law by judicial decisions. The process of investigation in our courts is calculated to give weight to their opinions. The points are elaborately discussed for the parties, and then calmly considered by the judges, and deliberately adjusted. The courts follow, rather than judge Congressional legislation, when exercised upon subjects involving political jurisdiction. No man can read their allusions to the topic before us, without being sensible that they assumed the existence of the power, and then sought the source from which it was derived. And, indeed, this is also a marked feature of our own discussions, which cannot escape the most careless observer. So much so, that those who doubt or deny it, are termed "crazy politicians," (Mr. Pettit, vol. 1, p. 717;) the denial "a bundle of absurdities," (Mr. Berrien, vol. 1, p. 875;) the reasons urged against it so futile, that "all see and feel the absurdity of the doctrine," (Mr. Woodward, vol. 1, p. 852;) and the attempt to test it by the Constitution a "puerile effort," (Mr. Hudson, vol. 1, p. 665;) while the wonder is expressed that "men of sound mind have recourse to such vagaries," (same, p. 664.) Time and possession seem to have superseded the Constitution; and we are sent, not to that great fountain of authority, but to the practice of Congress, in order to ascertain the power it possesses.

Says one member of the Senate, "It may not be material to determine whence it is derived, as the power is found to exist."—(*Mr. Bradbury, vol.* 1, *p.* 1142.)

"I hold," says a member of the House, "that Congress possesses the power to do all these things. Entertaining this opinion, it is not very important to determine from what source the power is derived;" or, in other words, I know Congress have the power, but I do not know where they got it. "It is sufficient for me to say, that I do not regard it as a power under the Constitution of the United States!"—*Mr. Stuart, vol.* 2, *p.* 178.

A POWER EXERCISED BY CONGRESS, AND NOT DERIVED FROM THE CONSTITUTION! Such a doctrine requires no refutation, and in fact admits of none.

"But gentlemen will insist on the source of power in Congress being pointed out. I am anxious to satisfy their demands; but my position is so strongly fortified by authority, and by the manifest absurdity of the opposite position, and rests so stably in the sound sense of practical and judicious minds, that I could not feel justified in detaining the committee with a detailed argument," &c.—*Mr. Woodward, vol.* 1, *p.* 850.

"Authority" and "the sound sense of practical minds!" So much for our sheet-anchor, the Constitution. Where the ship will drive when that is gone, it is not difficult to foretell.

"The action of Congress on the subject," (the organization of territorial governments,) "at its first session, and afterwards under the Constitution, is conclusive."—*Mr. Woodward, vol.* 1, *p.* 852.

"I agree with gentlemen, who have been so lofty in their encomiums upon that court, [the Supreme Court,] that their decisions, whether right or wrong, govern our action here."—*Mr. Corwin, vol.* 1, *p.* 1161.

These doctrines sound strangely to my ears; and I think they must sound strangely to the American people. And not the less so when we contrast the confidence exhibited in the judicial opinions upon this question, with the uncertainty which evidently rested upon the minds of the judges. We are told at first that there is no doubt of the constitutional power of Congress to legislate for the Territories. "All admit it," says Chief Justice Marshall. But, as the investigation proceeds, doubts seem to arise. At first, a Territory is governed by that clause of the Constitution which empowers Congress "to 'make all needful rules and regulations respecting 'the territory or other property of the United 'States;" and then "perhaps" the power "may 'result from the facts, that it is not within the juris-'diction of any particular State, and is within the 'jurisdiction of the United States," or in other words from necessity. After this follows the suggestion that "the right to govern *may be* the inevitable consequence of the right to acquire territory." And the conclusion comes to throw doubts upon the whole subject, by an apparent abandonment of the question of right, and a reliance upon possession, "the various Congressional regulations" of Judge Kent for the exercise of the power. "Whichever may be the source," says the Chief Justice, "whence the power is derived, the possession of it is unquestioned."

The possession, indeed! It is not that we are in search of, but the *rightful possession.* To be sure, Congress have exercised the power; but we want to know whence came the authority; and if that is a question which the Supreme Court is indisposed to meet, I trust it will be boldly met and freely investigated here. But does this language indicate any clearer conviction in the mind of that revered judge who adorned the station he filled, that the power, as exercised, was a constitutional one? What he saw clearly, he clearly expressed, and his habits of thought almost precluded doubt; but he doubted here. He seldom qualified his opinions with such words as "perhaps," and "may," and "may be;" the last twice used, and the whole compressed within seven or eight lines. Those who rest the power upon judicial authority, are welcome to all the support which these views bring with them. And yet an eloquent member of this body, whose remarks are generally characterized by a vein of rich humor, after quoting these views of Judge Marshall, exclaims triumphantly, "What can be clearer or more satisfactory on this point?" How far he yielded to that propensity in this observation, I do not undertake to judge.

The opinions of the members of the judicial tribunals upon constitutional points involving the political powers of Congress, are entitled to much consideration, when those points come before us, and we are compelled, in the discharge of our duties, to consider and determine for them ourselves. Not that they have the least binding authority in this hall of legislation, but because they present the views of able and learned men, qualified by their position and pursuits to investigate such subjects

and thus to aid us in our discussions and decisions. And I must express my surprise at a colloquy which took place between a Senator from Connecticut [Mr. BALDWIN, vol. 1, p. 703] and a Senator from Arkansas, [Mr. BORLAND,] and in which doctrines were advanced subversive of our legislative independence, and utterly irreconcilable with our responsibility.

The former quoted the opinion of Judge Marshall, and was interrupted by the latter, who said what I supposed till recently no one would deny, "that the Supreme Court was a tribunal whose 'decisions were binding upon the courts of the 'country, but not upon the legislature; nor could 'their decisions authoritatively define the powers 'of the Government." And he added, that he did not attach greater weight to the opinion of Judge Marshall than to the opinions of Thomas Jefferson or James Madison. To this correct sentiment, this answer was given by an American Senator: "I must, then, address myself to Senators who do acknowledge the authority of that august tribunal and of that eminent judge," &c.

If this be so, the opinions of the judges upon great questions of constitutional law, involving our powers and duties, are not merely entitled to attention and consideration, but they become *authorities*, binding our judgments and consciences, leaving us indeed the right to vote, but to vote only in accordance with the doctrines they establish. I merely state the proposition, leaving to those to refute it who think it merits refutation. If it is true, we had better vacate our seats, and let the court decide here, as well as in the apartment below us.

I see the effort is made here to show—and indeed it is pretty clearly shown—that some of the opinions of the judges upon this subject are *obiter* opinions, given incidentally, by way of illustrating the case before them, and "entitled to just 'as much respect as the legal attainments of the 'individuals expressing it could secure for a hasty 'opinion given on a subject which was not under 'the consideration of the court." But, sir, in my view this distinction has no place here. Whether the opinion is *obiter*, *by-the-by*, given voluntarily by the judge, and not necessary to the decision of the case in court, or whether it is directly called from him as involving the points in controversy, it should have just the same weight here—just as much weight as is due "to the legal attainments of the individual expressing it," and no more. For us, all such opinions are *by-the-by*. They do not settle our constitutional duties.

Now, sir, as to the congressional precedents. But, before I proceed to consider them, permit me to make a quotation from the valuable work of an able and accomplished jurist, and most worthy man, the late Chancellor Kent. How an expositor of our Constitution could maintain the existence of a legislative right by the mere exercise of a legislative power, as I know not, I shall not attempt to explain. It is another proof, that if we have not fallen on evil times, we have fallen on strange ones.

"It would seem from the *various congressional regulations of the territories* belonging to the United States, that Congress have supreme power, and the government of them, depending upon their sound discretion."

So much for the statute-book, instead of the Constitution.

But, sir, let us look at these congressional regulations. Fifteen territorial governments have been organized since the adoption of the present Constitution, differing in detail, but with one general principle pervading them, not rigidly adhered to, indeed, but sufficiently marked to show that it was the guiding feature of legislation—the right of the local governments to conduct the internal affairs of their respective Territories. This series of legislation certainly proves, as Judge Marshall says, the possession of the power, and that its exercise has been necessary; but it leaves its origin to be sought elsewhere, in the will of the people, expressed in the charter of their government, or in the very necessity of the case.

I have said the "local governments," but I do not mean by that expression that in the earlier ages of territorial political history, these governments were controlled as much as they should have been by the people. They were not; for a very unjustifiable system was introduced—that of authorizing the governor and judges to pass laws by adopting them, and, of course, with many changes from the laws of the original States. No one would be now found hardy enough to propose such a plan; it is among the things that have been. It preserved, indeed, the distinction between the general and the local governments; but it confounded all the just divisions of power, and in principle annihilated every vestige of popular right. It was a mere act of arbitrary power.

No man can turn over the original Articles of Confederation without being sensible that Mr. Madison was right when he said that in assuming the administration of the public lands, and making them productive, and in erecting temporary governments over the Territories, *Congress had acted without the least color of constitutional authority.*

From one end to the other of that instrument there is not a single grant of power which, directly or indirectly, looks to such objects. The whole was a mere assumption, justified only, as Mr. Madison says, by the "public interest, the necessity of the case, [which] imposed on them the task of overleaping their constitutional limits." A gentleman, now no longer here, who investigated this subject, as he did all others, with great care, has supposed that, as Mr. Madison stated the defects of the Confederation, and the necessity of supplying them by a new government, this consideration *leads almost irresistibly to the conclusion that he viewed the provision respecting* "rules and regulations" as the foundation of political jurisdiction.—(Mr. Dix, vol. 1, 863.) This is not so, sir. The old Congress did these things without color of authority—erected temporary governments, provided for the admission of new States, and assumed the administration and sales of the public lands. The former was a power spent—it had performed its office. The political organization embraced all the territory then held by the United States; and it is not at all probable, though the general provisions were doubtless known, that the details of the ordinance were ever critically examined by the Convention, who were occupied by subjects then vastly more important to them; though, indeed, a member of the House suggests that, as the Convention and the old Congress sat at the same place, there was probably a conference, at which the ordinance, or some of its subjects, were discussed and mutually arranged. The Con-

vention sat at Philadelphia and the Congress at New York; and thus falls this conjecture, built upon a supposed coincidence of time and place. And thus it happened that there is no reference whatever to this ordinance to be found in the Constitution, either directly or indirectly, nor any provision for the institution of temporary governments, the necessity for such a case not being foreseen—the power having been acted upon and spent.

But the admission of new States was provided for, being obviously a power that Congress would be called on to exercise; unless, indeed, this new doctrine, that the ordinance was among those "debts and engagements" which the Constitution declared should continue valid; for, in that case, new States could have been admitted upon the original pledge, and any other grant of authority was unnecessary.

And the administration, too, of the public laws could not be carried on without the action of the new Congress, exercised almost from day to day; and the necessary authority for this purpose was provided by the power to dispose of the public property and to regulate it.

And here the Constitution stops, leaving the right to establish temporary governments unprovided, the power having been exercised *de facto*, and no other territory remaining; not because the subject was not examined; but because it was examined and judged unnecessary, as is proved by the rejection of the following proposition in the Convention declaring that Congress should be clothed with power "to institute temporary governments for the new States arising therein."

What, then, and under what circumstances, has been the Congressional action upon this subject?—and how far may it be considered a binding precedent, precluding a resort to any other source of power?

Authority, even in countries favorable to its production, is a plant of slow growth. Generations, even centuries, sometimes pass away before it becomes firmly rooted in the soil, defying time and accident. Here the authority of practice is of yesterday. There are members of this body, and I am amongst them, who were born before the birth of our present Government, and yet we find ourselves engaged in a discussion which claims for it those hoary attributes which elsewhere come with time and use, too often, indeed, with time and abuse, and which, in a less genial climate than ours, require the lapse of ages before their authority is acknowledged and their power established.

That period of prescription, by which precedent makes principle by means of practice, and *whereof the memory of man runneth not to the contrary*, will be short, indeed, if this doctrine now becomes the doctrine of the country. Men yet upon the stage of action will have lived to witness its origin, its progress, and its final consummation. Our Constitution has been hallowed by success, but not by length of years. But it is now, and has been, and will be, our great political standard, by which the exercise of all power is to be tried, and rejected or affirmed, as it stands the test of this trial. We cannot too often advert to it in the contests of the day, especially when political power is the object of the controversy. And are we to be told, sir, that a few instances of legislation, almost all of which occurred without inquiry or dispute, places this question beyond examination, and that none but "crazy politicians" would appeal from the tribunal of Congress to the tribunal of the Constitution? What gives weight, sir, to legislative precedents? Not the acts themselves, but discussions, examinations, the comparison of opinions, and the reasons urged for and against them. A legislative measure, adopted *sub silentio*, settles nothing. Now, all the early legislation of Congress on this subject, so far as is known, passed without inquiry or opposition; and it was not till 1820 that the question excited any attention, and then only because it involved considerations highly important to a large portion of the Union. The necessity of legislation over the Territories was early felt, and this necessity was obeyed, as it was under the Confederation. There is not even a tradition of any debate or opposition All the elements of acquiescence on the ground of precedent are here wanting. We have the bare fact of silent legislation; but whether from the necessity of the case or from a constitutional grant of power, and if from the latter where that power was found, we have not been told, and there is no one now of the Senate to tell us. Show me the arguments, the discussions, the contest of mind against mind, the specific clauses referred to, and the reasons which were called out on one side and on the other, and I am ready, in a doubtful question, to yield all that ought to be yielded to the authority of opinion. But look at the bank question—solemly adjudged time and again, by all the departments of the Government, under the most imposing circumstances, to be a constiutional power, and yet at this day denied to be such by a considerable majority of the country, who think for themselves, and seek in the Constitution, and not in mere authority, the legislative powers of Congress. Do not, therefore, ask us to accept blindly the silent action of Congress respecting the Territories, and to abandon our convictions, not even to great names and able opinions, but to positive acts upon the statute-books, mere exercises of power, deriving no weight from the circumstances which attended them.

In the fullness of time came the Missouri controversy of 1820, and with it the first serious investigation into the powers of Congress over the Territories. I shall not review this controversy, either historically or argumentatively. That would be a work of supererogation, after the discussions it has called forth, and especially after the views presented by a member from South Carolina [Mr. CALHOUN] and a member of the House from Virginia, [Mr. BAYLY.] No man regrets more than I do the cause which detains the former from his duties among us on this occasion. I have enjoyed the pleasure of his acquaintance, both as a public and a private man, for a long period of time; and I have learned to admire that vigorous intellect and those extensive acquirements which, though they are known and acknowledged through the whole country, are the more appreciated the more nearly they are approached. And I have learned to admire still more those qualities of the heart without which the powers of the understanding become a dangerous gift, as well to the possessor as to others. May we soon be enabled to welcome his return to the councils of his country. I shall content myself with a few general remarks on the subject of this Missouri compromise. The action of Congress which followed and closed the contest, was not a legislatve precedent,

which settled a doubtful construction, but a political expedient, which adjusted a fearful controversy. It wanted the elements of authority. It was not a deliberate, dispassionate inquiry into the principles of the Constitution; but strong passions were abroad, unfriendly to cool deliberation, and utterly inconsistent with calm decision. Sectional feelings were aroused, and we seemed to be approaching that trial—*the* trial indeed for this Confederation of States, where one portion of the country is arrayed against another, and where an appeal to the common bond of union has been made, and made in vain. A legislative compromise, as it was called, was the result of this state of things, which certainly did not change the preconceived opinions of a single person, and which was *acquiesced* in by a large portion of the country, as was recently well said by a distinguished member of the House, in consequence of the circumstances, and not from a conviction of its validity. Such acts are not among those which carry human reason with them as authoritative expositions of constitutional law. Since then, this question, wherever it has arisen, unconnected with the compromise arrangement, has excited the same feelings, and been opposed with the same zeal and by the same arguments. And the discussion we are engaged in, and have been for years, and the state of the public mind, show conclusively that there is a large portion of our fellow-citizens who are little disposed to shut the book of the Constitution and open the book of the Statutes to ascertain the true powers of the government. Why, sir, these are the very times and circumstances which bring such questions to their trial—the very times and circumstances which written constitutions are designed to meet, and for which their limitations are wisely provided. When the public atmosphere is untroubled, the political business of the country goes on untroubled also; and even without a constitution, there would be little danger of the adoption of measures wrong in principle, or ruinous in practice. But when the storm comes, then comes the necessity of some agent to guide it or to allay it; and this is the peculiar province of the Constitution, whose obligations none deny, however they may differ as to their extent or application. He who believes that a few instances of legislative action, under any circumstances, and least of all under the circumstances in which these have occurred, can settle such a question, evinces little knowledge of human nature, or of the struggles of adverse opinions in free governments.

Why, then, have Congress exercised the power of governing the Territories? and why has their action been submitted to in the absence of any constitutional authority? Let the remarks of Mr. Madison, on the assumption of the same power by the Congress of the Confederation, and in which he participated, give the only answer that can be given to the question: "All this has been done," he says in the Federalist—that is, governments have been organized, &c., "without the least color of constitutional authority." He adds that he imputes no blame to Congress, because they could not have done otherwise. "The public interest, 'the necessity of the case, imposed on them the 'task of overleaping their constitutional author-'ity." As I have already remarked, sir, there are clear indications, in the opinions of Judge Marshall and of Judge Story, that this "necessity of the case;" or "inevitable consequence," was, in their view, one of the grounds of justification for the action of Congress upon this subject, since the adoption of the Constitution. "Perhaps," says the former, "the power of governing a Territory, '&c., may result *necessarily* from the fact that it 'is not within the jurisdiction of any particular 'State, and is within the power of the United 'States." The latter adopts the same idea when he says, "it must consequently be under the de-'minion and jurisdiction of the Union, or it would 'be without any government at all." This condition of things imposes the *moral necessity* to which both the Congress of the Confederation and the Congress of the Constitution have yielded. Now, sir, I am as far as Mr. Madison was from seeking to justify political action by the oft-repeated plea of necessity. It has no place in a constitutional code. It is a mere assumption, and nothing more nor less. But, when such a case happens, they incur the responsibility who yield to the necessity, and must throw themselves upon the country for their justification. If supported by public sentiment, they are safe; if not, they and their measures must fall together. Certainly it is the moral duty of any country, holding distant possessions, to institute governments for the preservation of social order. And here, and here alone, is the foundation of the power of government as exercised by Congress. It was assumed to preserve social order in distant regions; and had it been confined to its proper purpose, the institution of governments without interfering in the internal concerns of the people to be governed, it would everywhere have gone on to its proper consummation, the establishment of State government, without having its validity called in question. There were at first no peculiar circumstances to call public attention to the few violations of the great principle of self-government, which these organic laws contained, and, with one exception, these interferences were for the assertion of great well-known principles, founded in the English law, and adopted into ours, and were thus the less likely to provoke investigation into the validity of their origin. All the Territories have been governed upon this general principle of Congressional jurisdiction, leaving to the people to be affected by them the passage of laws suited to their condition—a principle not only safe in itself, but familiar to every American, as being the very condition claimed by our revolutionary fathers, when they commenced their discussions with England. The violations of it were few—different in different organic laws, and unnecessary in all—and when pointed out to the public attention, by the circumstances of the times, were strenuously objected to, as justified neither by law nor necessity, and therefore deriving no sanction from preceding legislation.

Upon this subject of territorial government, Congress began right, and it is difficult to ascertain why they afterwards admitted modifications at war with the true principles of safe legislation. The original ordinance of April 23, 1784, the predecessor of the ordinance of 1787, provided that the "settlers on any territory so purchased" might, on application, receive authority from Congress to meet together and establish temporary governments, &c.

Now, sir, among all the other reasons given for the exercise of legislation by Congress over the Territories, there is but one which derives it from an express grant of power in the Constitution, and that grant is found in the authority to dispose of and make rules and regulations for the public property. I put the proposition thus, because it is thus put by the Supreme Court. If this clause contain within itself "complete jurisdiction" and "plenary powers" of legislation over all persons living on the public property, not only while it is public property, but till it becomes a State of this Union, then the Wilmot proviso is constitutional, and, as a member from the West says, "this Government could sell the Territories into slavery."

If, on the other hand, the power of superior legislation is deduced as an auxiliary to some other Congressional power, or to some *attribute*, or what not, then its exercise is limited by the circumstances to which it owes its origin. All the clauses in the Constitution, and all the clauses out of the Constitution, which have been referred to as the foundation of this power, require its exercise solely as the means of insuring law and order to the public territory. That power, as Mr. Madison says, is in "suspension of the great principle of self-government, and ought not to be extended further nor continued longer than the occasion might fairly require."

And yet this principle of limitation, so obvious, and so obviously just, is considered by an eminent lawyer in the Senate as *absurd*. He cannot, he says, conceive a greater *bundle of absurdities* than a proposition that a territorial legislature may exercise local powers which Congress cannot. Well, sir, those of us, credulously inclined, find ourselves in pretty good company, which furnishes some relief to our self-love thus sensibly wounded. Mr. Madison's opinion I have just quoted, and I will quote another, which carried *some weight* with it once, though now it seems a good deal out of fashion, and has even become an *absurdity*. It is to be found in the declaration of the Continental Congress of 1774, and thus reads: The English colonists "are entitled to a free and *exclusive* power of legislation in their several provincial legislatures, where their right of representation can alone be preserved in all cases of taxation and internal polity," &c.

And the existence of these inalienable rights is now denied as coolly as if they were heard of for the first time upon this occasion; and the process of argument is well worthy of the doctrine advocated. "The major includes the minor," says one gentleman; "the greater includes the less," says another; and Congress cannot confer a power it does not possess, says a third; while a fourth, with becoming gravity, asks, *how many individuals would constitute a people? How near must they reside to constitute one people? And how far apart to make them two peoples?* They might be reduced to a triangle, a quadrangle, "or a circle."

Now, sir, I maintain as strenuously as any man, that this is an age of progress; but certainly this kind of progress—if I may so speak—is not an advancing, but a retrograde one. The great principles of free government are not to be tested by logical syllogisms, nor proved by mathematical demonstrations. They appeal to the common sense and common feeling of mankind. Lord North understood this major and minor; this right to do everything, because there is an acknowledged right to do something; but he could not understand the conclusion. He began to form some conception of it about the 4th of July, 1776; but it took him seven years fully to acquire the lesson. Are we about to forget it?

"And thus Congress is made to confer a power it does not possess." This is the remark, intended to be a conclusive one, which is to justify the epithet of a "bundle of absurdities." If by this is meant that Congress cannot confer a power it has no power to confer, it is a proposition which no one will dispute. If by possession it is meant that Congress itself may exercise every power it may confer, and that the right to do so is the test of its constitutional authority, the proposition needs no other refutation than the practice of every day, founded on the plainest principles of constitutional legislation.

And a distinguished Senator from South Carolina goes yet further in the denunciation of this recognition of human rights, and says, that "of all the positions ever taken, I hold that which claims the power for them (the power of legislation for the Territories) to be the most absurd." And why? I give the true point of the objection. Because the United States are the sovereign. "And how can sovereignty, the ultimate and supreme power of a State, be divided?"—*Mr. Calhoun, vol. 1, p. 871.*

I leave all that to the code of political metaphysics, of which I am neither a reader nor a believer, contenting myself with an appeal to the fundamental principles of our institutions, and to the Constitution of our country, which is built upon them.

The power, whatever it is, comes from the people of the United States. And here is precisely the root of the error which leads to all these metaphysical subtleties. What the Constitution permits Congress may do, and nothing more. If the Constitution permits it to institute governments for the territories, and withholds the right to interfere in their internal concerns, while the former may be exercised, the latter must be avoided, and all the scholastic refinements of the olden or of the later times cannot change, in one jot or tittle, this fundamental proposition. This new political axiom will hardly supersede the Constitution. Congress assumes the right to authorize the people of the Territories to meet in convention to form constitutions and State governments. In like manner it assumes the right to authorize the people of the Territories to exercise many of the privileges of self-government. And its power to do this must be tried, not by its power to do a great deal more, but by the great charter, the fountain of its authority. Whether this difference in fact exists between the power of government and the power of internal legislation under the principles of the Constitution, is precisely one of the branches of the inquiry before us.

With respect to the exercise of legislative power by the people of a Territory, it is assumed here by a majority of the speakers that that political condition is a boon, conferred by Congress, and that it may be enlarged, or restrained, or withheld, as may suit their views, from time to time. It is not necessary for any purpose I propose to myself, that I should undertake strictly to define the rela-

tions between the General Government and these territorial communities, or endeavor with actual precision to show how far we may impose restraints upon them in our supervisory character, if we consider ourselves authorized by the Constitution, or required by an imperious moral necessity to establish governments over them. I do not deny that there is here a reasonable latitude for sound discretion; nor that their peculiar relations under these circumstances give us a title to prescribe the general principles of their political organization. From their situation and condition it is difficult for them to institute the primary measures themselves, and, unless in cases of overruling necessity, there might not be that union of opinion and of action, without which social order would not be secured. When, however, they find themselves in the face of this necessity, from the neglect of the General Government to act, as in the cases of Oregon and of California, they will always be ready and able to avert the evils of political disorder, by a political organization adequate to the end to be proposed, and no one here will deny their right to do so under these circumstances.

Omitting, then, all consideration of the peculiar principles which should be kept in view, in the establishment of these local governments, such as the qualification of electors, the division of power, and other just provisions essential to public and private prosperity, there is a broad boundary between our rights and their duties, which we cannot pass inadvertently, and ought not to pass designedly. And that is the great principle I have endeavored to illustrate and enforce—the right to manage their own internal affairs in their own way, restrained only by this quasi constitution, the law establishing their government, and by the Constitution; and the necessity, which is our only justification for action, requires us to go no further. Social order is secured, and there our action should stop; and there, as I have already remarked, with a very few exceptions, wholly unnecessary and unjustifiable, it has always stopped. The necessity ceasing, the legislation arising from it should cease also. And this result equally follows, whether this necessity is a constitutional one, derived from some grant of power, which cannot otherwise be exercised, or a moral one, requiring the legislature to assume an authority not granted to them, to avert some greater evil, and for which they are responsible to their constituents. A dangerous doctrine, indeed, and to be narrowly scrutinized, when put in practice.

And this brings me to the nature of this congressional legislation, and its effect upon the people of the Territories. Does it enable them to exercise a portion of their natural rights, by providing for the organization of their government, as the acts of Congress passed for the purpose enable them to elect their convention, and form a State constitution? or does it confer upon them these rights, as well as the means of enjoying them? Do they belong to Congress first, and are they then doled out to the people as far and as fast as may suit the Congressional temper, or as some passing political struggle may permit? Had it not been for the lesson which this discussion has taught us, I should not have supposed there was a man in this broad republic who was not willing merely, but anxious, to render to Cæsar the things that are Cæsar's—to attribute to the people the things that belong to them. But it is not so. The doctrines we have heard advanced upon this subject are precisely those which are at war with human freedom in Europe, and which have achieved a temporary triumph in Hungary, in Italy, and in Germany; and they are maintained and illustrated by the same, or by kindred arguments and observations. *We are sovereign; therefore we have the right to legislate over the Territories in all cases whatsoever. The major includes the minor; therefore we, the greater, have unlimited legislation over the less. There can be no half sovereignty; therefore the Territories have no rights. Congress is made to confer a power it does not possess, and thence it follows that these unfortunate communities may be sold into slavery*, and so on to the end of the chapter, from Poland to Oregon. And human rights are thus frittered away and sacrificed, not to constitutional principles, but to metaphysical refinements which might almost provoke the envy of the Stagyrite himself, and of the whole peripatetic school he founded. And in a similar spirit it is clearly proved that, *as one man does not make a people*, we must show by some demonstration how many it takes for that purpose, *and how far apart they must reside to make two peoples;* or it is vain to talk of their rights or their wrongs, or to secure the one or redress the other. He who undertakes to apply the square and the compass to human rights, natural or political, will find he is dealing with a subject beyond his reach, and which has eluded many a mightier grasp than his own.

And we are asked, where did the people of the Territories get the right to legislate for themselves? Where did they get it? They got it from Almighty God; from the same omnipotent and beneficent Being who gave us our rights, and who gave to our fathers the power and the will to assert and maintain them.

I am not speaking of a revolution. That is a just remedy for violated rights. But I am speaking of a right inherent in every community—that of having a share in making the laws which are to govern them, and of which nothing but despotic power can deprive them. That power in Europe is the sword. Here political metaphysics come to take its place. The people of the Territories get the opportunity of enjoying this right of government, of bringing it into practical operation, from Congressional interposition, and they then possess it with no other limitations than those arising out of the Constitution and of their relations to the United States. Their powers of legislation embrace all the subjects belonging to the social condition. There is no act of Congress respecting any of the territories which undertakes to enumerate the various objects of legislation, and then to confer jurisdiction over them. The whole power is conveyed, with the very few exceptions I have stated, and these are expressly withheld. The only one, indeed, I now recollect, though I do not speak positively, except general provisions for the security of private rights, is the unconstitutional clause prohibiting slavery: and it follows, from these views, that the territorial legislatures possess full authority over all the concerns of life; over the relations of husband and wife, of parent and child, of guardian and ward, and, if the interposition of Congress is unconstitutional, over the relations of master and servant, including the condition of slavery. Hence, then, the objection we have so

often heard repeated, that these legislatures cannot act upon this subject, because Congress, having no power itself, can grant none for that purpose, is destitute of any real foundation. If, indeed, there is any constitutional prohibition, direct or fairly implied, which opposes their exercise of this power, then of course it is withheld from them. As that question is not in my way, I shall not turn aside to seek it, but shall content myself with saying that I see no such prohibition, and that I believe the people of the Territories have just the same rights in this respect that the people of the States have; that it is a part of their power of legislation, of which they cannot justly be deprived. Let him who seeks to deprive them of it turn to our great charter, and put his finger upon the restriction.

But, sir, I may well appeal to those who find in the Constitution or out of the Constitution this power to control the Territories by the Wilmot proviso, whether it is a power that ought to be exercised under existing circumstances.

Here is one-half of a great country which believes, with a unanimity perhaps without a parallel in grave national questions, that the Constitution has delegated to Congress no such power whatever. And there is a large portion of the other half which entertains similar views; while of those who see in the Constitution sufficient grounds for legislative action, there are many who admit, indeed probably there are few who deny, that the question is not free from serious doubts.

Besides the want of constitutional power, there are at least fourteen States of this Union which see in this measure a direct attack upon their rights, and a disregard of their feelings and interests, as injurious in itself as it is offensive to their pride of character, and, incompatible with the existence of those bonds of amity which are stronger than constitutional ties to hold us together. No man can shut his eyes to the excitement which prevails there, and which is borne to us by the press in countless articles coming from legislative proceedings, from popular assemblies, and from all the sources whence public opinion is derived, and be insensible to the evil day that is upon us. I believe this Union will survive all the dangers with which it may be menaced, however trying the circumstances in which it may be placed. I believe it is not destined to perish till long after it shall have fulfilled the great mission confided to it of example and encouragement to the nations of the earth who are struggling with the despotism of centuries, and groping their way in a darkness once impenetrable, but where the light of knowledge and freedom is beginning to disperse the gloom. But to maintain this proud position, this integrity of political existence, on which so much for us and for the world depends, we must carefully avoid those sectional questions so much and so forcibly deprecated by the Father of his Country, and cultivate a spirit of mutual regard, adding to the considerations of interest which hold us together the higher motives of affection and of affinity of views and of sympathies. Sad will be the day when the first drop of blood is shed in the preservation of this Union. That day need never come, and never will come, if the same spirit of compromise and of concession by each to the feelings of all which animated our fathers continues to animate us and our children. But if powers offensive to one portion of the country, and of doubtful obligation, to say the least of it, are to be exercised by another, and under circumstances of peculiar excitement, this Confederation may be rent in twain, leaving another example of that judicial blindness with which God in his providence sometimes visits the sins of nations.

Now, sir, as a mere practical question, is the legislative adoption of this proviso worth the hazard at which it alone can be secured—the obstacles and dangers I have briefly alluded to? There should be great advantages, inestimable indeed, to be gained before such a measure is forced upon the country. Can any man say that they correspond at all with the magnitude of the evils which must follow in their train?

For myself, sir, I do not believe that the slightest good will result, or would result, under the most favorable circumstances, from this Congressional interference with the rights of the people of the Territories. The object avowed is to prevent the introduction of slavery. Can it go there, even if left without this prohibition? I believe it cannot; and I believe there are very few, here or elsewhere, who think it can.

This view of the subject I had occasion to announce some two years since, together with the considerations, political and geographical, which led to the opinion. Time and experience have come to confirm all that was then anticipated, though certainly sooner and in a more imposing form than could then have been even conjectured. By far the most valuable portion of our Mexican acquisitions has organized a State government, and will, it is understood, soon present itself for admission, with a fundamental prohibition against the existence of slavery. Looking at the condition of New Mexico, at its products, its geographical position, the character of its inhabitants, whether natives or emigrants, and to the legal fact that slavery is now excluded from all that region, I think the most zealous advocate of this prohibition must admit that without it the country is as sure to be free from slavery as with it. For myself, I do not believe that if you were to pass a law establishing slavery in the Santa Fé country, or in Deseret, to adopt the new nomenclature, it would ever go there. More powerful considerations than your legislative action would control this question—considerations of profit, arising out of products which can alone render this kind of labor valuable, and which is sure to arrest it, in the cotton-growing and sugar-making regions, instead of permitting its emigration to higher latitudes, whose products require less labor, and by their distance from market must always be cheap and abundant.

I refer to these circumstances, not as influencing my own action, for with my views of the constitutional defect of power, I am precluded from entering into any other considerations; but as appealing to those who, finding the necessary authority, seek to exert it, in order to prevent the introduction of slavery into the new acquisitions. Nor have we any right to anticipate that this view, however correct it may be, will reconcile the South to abandon their objection to this measure. All experience shows that a controversy like this, which has reached its present condition, under circumstances so imposing, where great questions of right and of feeling are involved, is maintained without

reference to its *utilitarian* result. And there is no better illustration of this truth than the history of our own revolutionary struggle presents; where the principle itself, far more than its immediate practical application, roused a continent to arms.

The Wilmot proviso is urged upon the ground of its expediency. It is opposed upon the ground of its unconstitutionality. Those who urge it may well abandon it, when circumstances show that the measure is dangerous in itself, or profitless in its result. Those who oppose it cannot change their convictions of right, and that portion of the Union which considers itself peculiarly affected by it will not change the conviction that its feelings and interests will be sacrificed in violation of the great compact which makes us one political family.

Now, sir, I repeat, is the contest worth the cost? To place this barren, and, as I believe, unconstitutional proviso on the statute-book—is that a recompense for the wounds that would be inflicted, and the feelings that would be excited, whose disastrous effects no right-minded man can contemplate without the most serious apprehension? The oldest among us may live to see their commencement, the youngest may not live to see their termination. For myself, I will take part in no such effort. I will minister to no such feeling. I will engage in no such crusade against the South, from whatever motives it originates. I will endeavor to discharge my duty as an American Senator, to the country and to the whole country, agreeably to the convictions of my own duty and of the obligations of the Constitution; and when I cannot do this, I shall cease to have any duty here to perform. My sentiments upon the Wilmot proviso are now before the Senate, and will soon be before my constituents and the country. I am precluded from voting in conformity with them. I have been instructed by the Legislature of Michigan to vote in favor of this measure. I am a believer in the right of instruction, when fairly exercised and under proper circumstances. There are limitations upon this exercise; but I need not seek to ascertain their extent or application, for they do not concern my present position. I acknowledge the obligation of the instructions I have received, and cannot act in opposition to them. Nor can I act in opposition to my own convictions of the true meaning of the Constitution. When the time comes, and I am required to vote upon this measure, as a practical one, in a bill providing for a territorial government, I shall know how to reconcile my duty to the Legislature with my duty to myself, by surrendering a trust I can no longer fulfill.

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REMARKS

OF

HON. D. S. DICKINSON, OF NEW YORK,

IN THE SENATE OF THE UNITED STATES, JANUARY 17, 1850,

Upon Mr. CLEMENS'S *Resolutions calling for the Instructions of the President concerning California; with a sketch of the Debate on that day.*

Mr. SMITH. There are on the table several resolutions calling for information from the Departments. I suppose they will not lead to any debate. I had the honor to submit to the Senate the other day two resolutions of this kind, and my friend from New York [Mr. DICKINSON] also submitted one or more. I am desirous that they should be taken up and adopted. I will move that they be taken up in the order in which they have been offered.

The first resolution in order—the one that was first offered—is that relating to California. It was read by the Secretary as follows:

Resolved, That the President of the United States be requested to inform the Senate, as early as practicable, whether any person has been by him appointed civil or military Governor of California since the 4th day of March last; and, if so, who has so been appointed, and what compensation has been allowed him.

Mr. CLEMENS. I stated the other day that I thought it probable that the information called for by this resolution would be furnished in answer to the resolution which has been adopted by the House of Representatives. If this should be the case, it would be unnecessary to adopt this resolution; and I thought it better therefore to wait and see the answer to that inquiry.

Mr. DOUGLAS. I trust the resolution will be adopted. If the answer made to the House cover the entire subject, it will be a very small affair—a matter of very little difficulty to send a copy of it to us.

Mr. SMITH. But I desire to state, for the information of the Senator and Senate, that I understand from a source of information upon which I can rely, that a most explicit communication has been made to the House of Representatives on this entire subject, and that the President and heads of Departments have been so particular as to communicate copies of every single scrap or scrawl that is to be found in the archives relating to this subject, so that the honorable Senator will probably learn and be fully satisfied as to the truth of what I regard to be a most unfounded imputation on the President and the present Administration.

I move to lay the resolution on the table.

Mr. DOUGLAS. I hope the Senator will withdraw the motion for a moment, in order to allow me an opportunity to say only a word or two in reply.

Mr. SMITH. Certainly.

Mr. DOUGLAS. I made no charge; I made no insinuation of improper conduct against this Administration. I merely referred to the fact, which is well known to the country—which is well known to every Senator here—that the newspaper press throughout the country has been discussing this question, and that imputations are made against the Administration for improper interference to coerce public opinion, and suppress its free expression in California. I know not whether these charges are true or not. I have seen no evidence that justifies the belief that they are true.

Mr. SMITH. With regard to raising the curtain, all I have to say is, that it has already been raised once, and whether the honorable Senator will be able to see any more clearly by having another effort made to raise it, is a matter in regard to which it is very difficult for me to form an opinion. I have not said, Mr. President, that the proclamation issued by General Riley was improper. I have not said that anything done by him while acting under the authority of the late Administration was in the slightest degree reprehensible.

Mr. DOUGLAS. I do not know where he got his authority for saying that no orders had reached him, because I know of no one who could know that fact but General Riley himself and the Administration in correspondence with General Riley. I do not know either how the Senator from Connecticut was authorized to say that the Administration have sent to the other House a copy of every letter, dispatch, scrap, or word that the Administration has written and sent upon this subject, unless he spoke by the authority of the Administration.

Mr. CLAY. I really, sir, have no wish to interfere in this contest between the two honorable Senators—the Senator from Connecticut and the Senator from Illinois.

It seems to me to be a pretty equal combat; for, if the honorable Senator from Connecticut has the advantage in size, as he certainly has, the honorable Senator from Illinois has undoubtedly greatly the advantage in position, and makes up by that for any difference there may be in point of size between the two Senators.

Mr. CLEMENS. I hope no Senator will be influenced in his action on this subject by any desire to extend courtesy to me. I ask nothing of the kind at the hands of any man. I desire them to vote according to the dictates of their own judgment, and to understand, too, what they are voting for. It has become so much the fashion here to discuss everything but the precise question before the Senate, that it has come to be regarded as the regular practice and custom, and the Senator who objects to it is considered captious and ill-natured. The question is not now whether this resolution shall be adopted, or whether I or anybody else is

in favor of it, or even whether we want the information proposed to be obtained. That is not now the question. It was the question the other day, however, and the Senator from Illinois [Mr. DOUGLAS] voted against it. It is his fault that the information has not been furnished to the Senate; and I must be permitted to express my surprise at the new-born zeal to obtain it which seems to animate him now. Why did he not vote for its adoption at the time he caused it to be laid on the table? Who prolonged this matter, and prevented us from receiving this information before this time? It was the Senator from Illinois. He moved to lay it on the table, and his vote carried it there. I say the question is not now whether we want this information, or whether it is necessary, or will be of public utility, but whether it has not already been furnished to the House of Representatives; and, if so, is it not an unnecessary requirement to call upon the Departments again to furnish it to us. That, sir, is the only question here now. I hink it is very probable that the information has been already furnished, and I want the resolution passed by now for the purpose of ascertaining whether it has or not.

I move, Mr. President, that the resolutions be laid on the table.

Mr. DOUGLAS. I claim the privilege of making a single remark. As an act of courtesy, will the Senator from Alabama give me the opportunity, by withdrawing his motion?

Mr. CLEMENS. No, sir.

Mr. DOUGLAS. I ask the privilege, then, of the Senate, as an act of courtesy.

The VICE PRESIDENT. There is no way of obtaining what the Senator desires, except by a vote of the Senate.

Mr. DODGE, of Iowa. I ask, then, sir, a vote of the Senate.

Mr. KING. I hope my colleague will withdraw his motion, and allow the Senator from Illinois to proceed.

Mr. CLEMENS. Very well; at the suggestion of my colleague, I will withdraw the motion.

Mr. DOUGLAS. I will not say that I regret—though I did not expect—yes, I do regret that the honorable Senator from Alabama has given the turn to this matter which he has. He has charged me with being responsible for the delay of this subject, because the other day, when he was anxious to have it acted on, I moved to lay the resolution on the table, at the same time assuring him that I would move to take it up in an hour. The reason I gave was, that it had come up accidentally on a motion of mine to suspend the order of the day to get at the consideration of another subject; but I pledged myself that I would move to take it up in an hour, and would vote for it. With what fairness, then, can the honorable Senator from Alabama charge me with having postponed it to this time, and with having caused this delay? Can he with fairness charge me with having voted against this inquiry, when he heard me, and every Senator heard me, offer to vote to take it up in an hour; especially when I went to him in fifteen minutes and offered to move to take it up, and he told me he did not want me to do it, because it was laid on the table by a sectional northern vote, and he wanted to prove and use that fact at the South—that the North would not allow the South to have an honest investigation of this matter? He had accomplished his object, he said. I told him, if he had accomplished his object, that I had not accomplished mine, and that I desired to see the resolution adopted. Hence, I expected that yesterday, when the subject might have been brought up, the Senator would let it go over, and I expect he will do so again. I wish to show that Senator that my object has never been concealment. I am anxious to see this resolution adopted, that it may not be said in the South that the North, as a section, has stifled investigation on this subject. That was my object to-day in laboring hard to get it up, and I was astonished that the Senator from Connecticut did not understand the movement that was playing and going on. It has been a matter of by-play which I have understood all the time.

Mr. BUTLER. Understood what?

Mr. DOUGLAS. Understood that the Senator from Alabama did not desire to have that vote reversed, because he wanted to hold me to my vote to lay the resolution on the table. This was understood by Senators all around me.

Mr. BUTLER. I never heard of such an understanding. When the gentleman speaks of Senators all around, may I be permitted to say that he takes in too many.

Mr. DOWNS. The remark is certainly too broad.

Mr. DAVIS, of Mississippi. It has not reached as far as my seat. I have not understood it.

Mr. BORLAND. I wish to say that it did not reach even as far as this spot.

Mr. DOUGLAS. Well, I will explain. Several Senators came to me—I do not know how many—and said they believed many were willing this should be regarded as laid on the table, and kept there by northern votes. I was willing to reverse the vote of the other day. Other Senators, so far as I had spoken to them, desired to show on the record that they were not unwilling that the investigation should be made. And when it was whispered in private circles and here, that the North had been caught, and that it would be held up as a sectional vote against allowing this investigation, several Senators spoke to me, and desired to have the question taken up.

Mr. KING. I had no intention of saying a word on this subject. I much regret the course this debate has taken. I had supposed that it was the wish of my colleague that this subject should be taken up and finally acted on, and I was not aware that he desired any postponement of it. It will be well recollected that, when it was taken up the other day, I appealed to my colleague that he would permit it to go over until the next day, so that we might go into executive session, as there was some business necessary to be acted on.

As to the disposition manifested by any portion of the Senate with regard to this subject, of which the Senator from Illinois has spoken, I myself knew nothing; and if the Senator has been told that there was any disposition on the part of any southern man to press this resolution with a view to effect an object different from what it expresses, let him name him.

Mr. DOUGLAS. I went to the seat of the Senator from Alabama, just after the vote was taken the other day, in the kindest feeling, and said to him that I would move to take up his resolution at the earliest period on that day. He said to me that his object was accomplished; that it was laid on the table by an almost unanimous northern vote: his object was thereby accomplished, and he desired the South to understand the matter. I said that mine was not, and that he ought not to

make such a use of my motion, because he knew I only desired to lay it on the table temporarily. He replied, you may have done so, but you are the only one. I was desirous, from that fact, that it should be taken up, and to have that vote reversed, so that no such use might be made of it, and I desired also to have it taken up, because I think the resolution should be adopted.

Mr. KING. My course in this body is well understood. I have never concealed my purpose, but have gone straight forward to my object, fairly, honestly, openly. I have no desire to have any vote taken here which would array one section of the Union against the other, or induce the impression that a portion of the Senators were actuated by sectional prejudice or any improper motive.

Mr. DOUGLAS. The honorable Senator will allow me to call his attention to the facts. I moved to take up the resolution because I thought it was due to the Administration and to the country that it should be adopted. I therefore advocated its adoption this morning for public reasons, and I should never have alluded to the private reasons, had not the Senator from Alabama charged on me that I was the cause of the postponement. There were public causes for my course, but this fact was private and personal besides.

Mr. KING. I cannot but regret that there is a disposition to indulge in personalities here. It should always be avoided, for it leads to no beneficial results. I hope and trust we shall have fewer exhibitions of this character hereafter. I say this, while I probably subject myself to the censure of attempting to lecture the Senate, which I would be very far from doing. I speak as a Senator who has been here many years, and as one always anxious to see the members of this body preserve that decorum and kindness towards each other which secures to the body the respect in which it is held throughout the country and the world.

Mr. DOUGLAS. I merely meant those Senators around me—those who had spoken to me on this subject.

Mr. CLEMENS. I do not know that it is necessary that I should say more in relation to the merits of this question, but there is a matter between the Senator from Illinois and myself which requires that something should be said by myself. And I take occasion to say that a Senator who undertakes to retail private conversation ought to be cautious what he says in relation to it, because if it should happen that the memory of the individual and his own should differ, he might find himself awkwardly situated. But he runs no risk in retailing what I said. My lips avow what I do, and my hand is ready to defend it. I said to the Senator from Illinois pretty much what he has related, and something besides which he has not told. I did tell him, when he came to me and offered to make a motion to take up this resolution from the table, that I did not want his help. I did tell him also that the North had proved what I always knew—that the northern Democrats wanted to shield the President from this investigation, because the slavery question was involved in it.

Mr. SHIELDS. I disavow, for myself, any such imputation, that I gave a vote for any such purpose.

Mr. CLEMENS. The gentleman is perfectly at liberty to disavow it if he sees proper. I repeat that I said it, and I say it now, and I am responsible for what I say, sir; that the people of the Northern States were willing to shield the President from this investigation, because the question of slavery was involved in it; that on a resolution of this sort the entire body of the northern democracy were found voting against it. I told him that I wanted to show to the people of the South that they were laboring under a delusion.

Mr. DICKINSON. I will thank the Senator not to read me out of the party. I voted against the motion to lay on the table.

Mr. CLEMENS. I beg your pardon, sir. I said the people of the South had been heretofore laboring under the delusion that the northern Democrats were their friends. I said it was a delusion, and I was glad to have an opportunity of explaining it to them. God deliver me from such friends as the northern Democrats! I would rather trust northern Whigs to-day. They commenced the game earlier, and have not to go so far to get in a proper position. Look at the resolutions of Democratic Legislatures and the messages of Democratic Governors, and the resolutions adopted by Democratic conventions, and then tell me about northern Democrats being the friends of the South. They may vote in a body for the adoption of this resolution if they choose, but it will do us no good; because a similar resolution has already been adopted in the House, and this investigation must go on. They come forward now, with their aid, when we can afford to dispense with it. They tell us now they are willing to adopt the resolution, and the gentleman from Illinois says it is necessary to put himself in a right position. What is that position? It is to enable him to go before the country and to tell the South that he is still a friend of the South, and to deceive them a little longer. That is the position of the northern Democrats. Put them to the test, put something practical before them, and where is the aid which we get from the northern Democracy?

The junior Senator from Illinois [Mr. SHIELDS] has seen proper to disavow a declaration made by me in terms which I suppose were meant to be offensive. I repeat, therefore, for his especial benefit, what I said before, that I am responsible here and elsewhere.

Mr. DODGE, of Iowa. I call the gentleman to order. I wish to say that in debate such personal remarks should not be allowed.

Mr. SHIELDS. Will the Senator from Alabama allow me——

The VICE PRESIDENT. What is the point of order?

Mr. DAVIS, of Mississippi. The point of order is to exclude all personal remarks, and I hope it will be enforced.

Mr. FOOTE. Will my friend from Alabama allow me?

Mr. CLEMENS. Certainly, sir.

Mr. FOOTE. I hope my friend from Alabama will allow me to say to him that I am sure one or two of his remarks must have fallen from him without due deliberation, as I know is the case with myself often in the heat of debate, and as I believe is the case with himself on this occasion. I have been here for some time, and I have had free and unreserved intercourse with certain northern Democrats, whom I esteem, and whom I hope my friend from Alabama will hereafter have cause to esteem also. I could mention a great many names to him whose merits he would recognize at once.

That many friends have fallen off from us in the North is true; but perhaps the South herself has not always stood by her friends in the North. But

we have very many faithful, tried friends; some who have fallen victims to fanaticism whilst valiantly fighting for southern rights. There are some in this Chamber who have always stood nobly by us, and who manifested even Roman firmness, and will do so yet, I know. And there are men out of this Chamber, whom I could name—such men as George M. Dallas, James Buchanan, Levi Woodbury, and a host of others, good men and true—for whose fidelity and firmness I would vouch as soon as I would for any southern man.

Mr. BUTLER. I heard all that passed, and I am satisfied that the Senator from Illinois, [Mr. SHIELDS,] when he rose to make the disavowal which he did, did not intend anything offensive to the Senator from Alabama, and I say so without having conversed with him.

Mr. SHIELDS. You are right, sir. I intended to make the explanation which the honorable Senator from South Carolina has made. I agree with the Senator from Alabama [Mr. KING] that all personalities are, in my estimation, disreputable to this body, and I rose with an object, so far from saying anything offensive, with the express desire to satisfy the Senator from Alabama [Mr. CLEMENS] that in giving my vote to lay this resolution on the table, I did it without any intention whatever to affect the question of slavery in the South or abolition in the North. I knew of no such intention; and I now assure that gentleman that I had no wish to say anything offensive to him or any other member of this body.

Mr. CLEMENS. I am glad to hear the honorable Senator's statement. I am glad that this episode is happily ended; and to the honorable Senator from Mississippi I will take occasion to say that there is no man in this body for whom I have a more sincere respect or kinder feelings. He has, as he has a right to do, presumed on an acquaintance of long standing and many acts of kindness extended to me, to set me right, as he says, in this matter. I may not be right in saying that the entire body of the northern Democracy are against us, but I am not wrong in saying that there is not a Legislature, Democratic or Whig, north of Mason and Dixon's line, that has not instructed its Senators to do what the Legislature of my State has declared to be a cause for the dissolution of the Union.

Mr. DODGE, of Iowa. You are wrong. The Legislature of my State has never done it.

Mr. CLEMENS. I am glad that there are some of them who have not done so. But there are representatives here who do not need to be instructed. It is true, however, sir, that——

Mr. DAVIS, of Mississippi. Will my friend allow me to interpose a single remark?

Mr. CLEMENS. Certainly.

Mr. DAVIS. I would say, then, and I say it to him with the more confidence on account of the high regard I have for him, and the sympathy I have in his present position. I am myself subject to the same feelings of excitement, and especially on this subject. It is a subject on which we all feel, and feel deeply, and on which we are apt to speak strongly. But is it well to reopen the wounds which have already been inflicted in this sectional strife to the Union? Is it well to point to the wrong-doings of others, that they may recriminate on us, and widen the breach which already exists, and increase the danger which already threatens us? I ask my friend to calm himself, in order that his remarks may only be applicable to so much of this discussion as has a bearing on his position in connection with this resolution.

Mr. CLEMENS. I will take the suggestion of the gentleman from Mississippi, and let the matter pass. I will say, then, in relation to the only matter which should have been discussed, and the only matter legitimately before the Senate, and the only matter that I have been anxious to say anything about, that the adoption of this resolution now is unnecessary; as the information it seeks is already obtained in the House of Representatives, and it is not necessary that it shall be copied over again and sent to us. My object was to get early information, and we failed to get it. Upon the motion of the gentleman from Illinois, no matter from whatever cause it was made, it was his motion and his vote which caused its postponement, and in consequence of that we have failed to get the information at the time we desired. He says he made the motion because there were resolutions on file which he wanted to have adopted, as they could be without producing discussion; the same state of the case applies now. There are resolutions that it was desired to get at this morning for precisely the same reason. There is the stronger reason that then the information had not been furnished to the House of Representatives, but now it has. I move to lay the resolution on the table, and I give notice that I will not withdraw that motion again.

Mr. DICKINSON. I hope the honorable Senator will withdraw it to allow me to make an explanation.

Mr. CLEMENS. I will do so if it is a personal matter.

Mr. DICKINSON. It is partly personal and partly political.

Mr. CLEMENS. Then I will not withdraw the motion.

Mr. DICKINSON. I will then appeal to the Senate, and ask as a favor that it be not laid on the table.

The question was taken on the motion to lay on the table, and it was rejected.

Mr. DICKINSON. I have taken no part in this debate, Mr. President, and I regret that it has arisen, and especially that it has passed beyond its own boundaries. In the hour which is usually appropriated to morning business, I was engaged in attending to my correspondence, which is my custom, and I therefore paid but little attention to this matter. But some things have fallen from honorable Senators during this debate, and especially from the junior Senator from Alabama, [Mr. CLEMENS,] which require not only to be noticed, but to be noticed here and now. Sir, that Senator, when he undertakes to characterize the sentiments of whole communities, and the opinions of entire bodies of men, comprising a large majority of the people of this Union, enters upon the execution of a work which might well have been left to older, if not to better soldiers. In regard to this matter, Mr. President, though I have done no more than others, I think I may say, without the fear of contradiction, or of being charged with unnecessary egotism, that I have stood up to it upon all occasions. I long since saw that it was a question fraught with perilous consequences. I saw that there was an evil spirit of sectionalism rising both in the North and in the South, having for its object agitation for sectional advantages, and I have condemned it secretly and openly—in thought, word, and deed. I never have

lent myself to such unholy and wicked designs, and if God gives me that strength which he has thus far in mercy extended me, I here declare again, where it should be declared, that I never will, but that I will lend my best energies to crush and destroy it. I have stood here under the sanctions of an official oath and the requisitions of the Constitution like Casabianca upon this question, which has so unfortunately, to say the least, agitated the country for the last few years, and here I will stand, even though immolation be the consequence. Others, too, of my northern democratic brethren have shown no less devotion to the Constitution they have sworn to support. I have stood up, not for the South, but for the rights of all, as guarantied by the Constitution. I have disregarded personal consequence, and have scorned to count the chances of ephemeral popularity and place. I have permitted reproach and obloquy to discharge on me their exhaustless quivers of poisoned arrows, that I might secure the right; and when I hear myself, and those with whom I have acted, in rolling back the black and bitter waters of sectional strife, denounced as unworthy of reliance—all in one grand mass excommunicated from communion and fellowship with the democratic church—in a single verse, and told, too, that we are less to be tolerated than our political opponents, I feel inclined to repel, in pointed and emphatic phrase, a denunciation so wholesale and unjust.

Mr. CLEMENS. I call the honorable gentleman's attention to the resolutions of the 7th of January, 1847, the 10th of January, 1848, and to like resolutions of 1849, of his own State Legislature.

Mr. DICKINSON. I cannot now speak of the exact import of the resolutions. They were doubtless of an anti-slavery character, and similar to those passed by other Legislatures, North. It is well known that I differed with those who passed them upon the best mode of disposing of the question, and this responsibility I will settle with those who have a right to call me to account, and not with those who have not. The Legislatures which passed them have been sometimes considerably divided among themselves. Sometimes they have passed with great and sometimes with less unanimity. The northern sentiment upon the subject of slavery is in many respects entirely dissimilar to those of the South; but when we are told that there must be a sectional issue raised because of this, let the voice which so declares come from the North or from the South, I stand here to repudiate it. The people of the North regard the question of slavery as a constitutional guarantee, precisely as do the people of the South, and as such are ready to respect it. It is the political agitators in both sections who have made all the mischief. Sir, take a small number of men out of the northern and also out of the southern sections of this Union, or silence their clamor, and this accursed agitation could be settled in less than a single week. I am for maintaining the Union in spirit as well as in form; and I have deprecated the assaults which I have seen made upon the Constitution occasionally in the non-slaveholding States, in the refusal to deliver fugitives from service according to a solemn provision of that instrument. Bnt this, sir, I look upon as a matter which must be reformed at home, as it will be by a sound and healthy public opinion, when it shall set a just estimate upon the interference of political agitators, and condemn a morality that is purer than the fundamental law. But I will not even dwell upon the alleged errors of any section of my country. If she has ever been astray, rather than contemplate it, I would, like the son of the erring patriarch, walk backward and cast the mantle of concealment over it. I desire to preserve in all its vigor the glorious inheritance which our fathers gave us; to see the South secure in the full possession and enjoyment of their constitutional rights. I have stood by them when I thought them right, regardless of peril, and will now aid in shielding them from unjust and improper aggressions upon their institutions. In this struggle numerically they are the weaker party, and when I have seen them unjustly assaulted and assailed, my sympathies have been with them; and I have exposed and denounced not only the sectional agitators, but have warned those against excitement whose views and intentions are just, but who have been provoked to retaliation by just such wholesale sectional assaults as are now heaped upon the North by the Senator from Alabama. Sir, crimination begets recrimination; and although men may put on the garb of philosophy for an occasion, they are yet liable to be betrayed by impulse and excitement; and when they hear distinguished southern men day after day making sectional appeals, grouping all together and condemning all in gross, without stint or exception, they in their turn will make other declarations, and thus the work goes on. One sectional agitator begets another—a blow given brings a blow in return, and thus sectional agitation makes the meat it feeds on. I have already said I regretted that this subject has been introduced. Allow me to say, that I do not regret that it is about to reach its culminating point. I care not how soon this may be the case. I believe that the great mass of the people of the South are honest, just, and generous, and that all they desire is to remain secure in the possession of their rights. I believe too, sir, that the great mass of the people of the North are equally just and equally generous, and true to the Constitution, and that they too desire nothing more than what they deem to be their rights, and the rights of the whole people, and best calculated to advance the honor of the Confederacy and the interest and happiness of mankind. When reviled I will not revile again. I will by no means repudiate the southern Democracy. They have too often proved themselves worthy of the name they bear. Nor, sir, upon the question of this Union, much and radically as I differ with them upon other questions, will I repudiate the patriotic among our opponents. This question shoots too deep and stretches too high to be measured by political parties, and when the day of trial comes, if come it does, every patriotic man will breast himself for the shock, and sectional agitators will be foiled. The Constitution throws its broad ægis over this mighty Republic; and its people worship at its shrine with more than an Eastern devotion. They have contemplated the priceless value of the Union. They have thought of the blood and tears by which it was purchased. They see the proud vessel bearing majestically onward, and they exclaim in the language of the poet:

"Thou, too, sail on, O ship of State!
Sail on, O Union, strong and great!
Humanity with all its fears,
With all the hope of future years,
Is hanging breathless on thy fate;
We know what master laid thy keel,
What workmen wrought thy ribs of steel;
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what a forge and what a heat
Were shaped the anchors of thy hope."

They will cheer on this noble ship; they will stand by this Constitution; they will adhere to this Union; and, although the northern people are opposed to the institution of slavery, the great mass of them have no intention or disposition to trench improperly upon the constitutional rights of the South; and this they will prove, should the occasion arise, even though they should sell their lives in her defence. Sir, if it should come to the worst, as it never will, so firmly are the northern people devoted to the Constitution, that if armed incendiarism, foreign or domestic, should push her mad crusade against the South, and she be placed in peril, I am free to declare, I would, and so I believe would every patriotic man of the free States who had a sword to draw, draw it in defence of their southern brethren, and of the rights guarantied to them by a common compact, and stand by them to the death. [Applause.] But, sir, they will only stand by her when she is right; and so long as she is so, no swords will be called into requisition, except against a foreign and a common foe. The very heat, natural and artificial, to which sectional agitation has attained, will work its own cure. It will burn itself out. Northern agitators and southern agitators will find themselves side by side in their errand of mutual mischief. And the great mass of the American people will look upon this Union as it is, and upon southern rights and northern rights as they are, and will stand by them and protect them.

These territorial questions, this District of Columbia question, this question of jurisdiction in forts and dock-yards, arsenals, and navy-yards, and so forth, are mostly questions temporary in their character; and together with the question of fugitives from service would be soon settled by the good sense of the right-minded, were it not for the wholesale denunciations of men grouped together in whole communities and States, on one hand denouncing the North, the North, the North; and on the other hand the South, the South, the South. This provokes the greater part of this struggle; and I would suggest whether it would not be more wise if gentlemen would exercise a little forbearance, always remembering the saying, "let him that is without sin cast the first stone." I am willing to admit that the great mass of our southern friends treat this question as it should be treated; and I am pleased to see them stand up boldly as they do for their right of being let alone. I am gratified to hear them, in a proper spirit, stand by their institutions and defend them; for it serves to show, what some seem practically to forget, that this Confederacy is a sisterhood of free and independent States associated for a few common purposes, and not a consolidated Federal Government. The North and the South stand together upon one great constitutional platform, and neither has a right to claim superiority over the other. The people of the South have institutions that are sensitive and that can be endangered by agitation in the North, and in opposing such agitation I have been willing to throw myself into the breach to turn it aside; I have attempted to call the attention of the northern people—nay, of the whole American people—to the danger of agitating this question; and I would say in all kindness to my friend from Alabama that he gives more food in one speech for the nourishment of the Abolition movement than all the Garrisons, Wendell Phillipses, and Abby Folsoms, and all the speeches of all the "Free Soil" agitators and abolition demagogues put together. He does more to provoke assaults upon the institutions of the South than all that abolitionism has ever been able to accomplish in the hour of its most fiendish triumphs. I beg of that honorable Senator when he has anything to say hereafter—unless he is impelled by a strong sense of duty—that he will not attempt to foment and carry on this sectional agitation. To what end and to whose good will result the dissolution of this Union, from the contemplation of which every patriotic mind instinctively recoils with horror?

I sing no hosannas to a Union without a constitution. I admit that when the life and spirit have departed, the frame-work will be valueless and will tumble to decay. But the spirit has not yet departed—the life is not yet gone. It is true it has received many assaults, but it is capable of receiving and sustaining many more. Let those who are disposed to indulge in agitation ask for the rights guarantied by the Constitution only; but when they ask for these, let them not ask for what the Constitution does not guaranty. Let them not provoke assaults themselves, while decrying the assaults they invite.

The honorable Senator from Alabama repudiates and casts off the northern Democracy. They will, however, do no such thing with him. They will retain him in full membership, but endeavor to teach him some instructive and useful lessons. And upon this subject of reading out the entire Democracy of fifteen States of this Union, they will request my young friend from Alabama to tarry a while at Jericho until his beard shall have grown. [Laughter.] I greatly admired parts of a speech which that honorable Senator delivered here a few days since. He therein depicted the position of the South in glowing and eloquent terms, and in a manner which was well calculated to call the attention of the American people to this question. And if we could at all times keep in view the high destiny of this nation, and the high duties of those clothed with power,—if the American people would set their seal upon political hobby-riding for a miserable party advantage upon questions of this import,—there would be no trouble; or none which did not exist at the time of the original formation of this Government. This question of slavery was one of difficulty then; and the same spirit of patriotism which rose above it then, the same principles of compromise which led to the formation of the Constitution, must preserve it. The Democracy of the North are not, and cannot be made, a mere sectional party. Our Government, in one sense, exists in the organization of national political parties; we have nothing separated from politics. If you make a sectional party in the North, you will by the same act make a sectional party in the South. If you thus divide the Democratic party you will also divide the Whig party; and when you divide these parties into sectional portions, the result will prove that you might as well put an end to the Constitution and the Union.

I have spoken only because I felt assured that the remarks of the Senator had a direct tendency to create and foster sectionalism, and to produce, what we all deprecate, a division of political parties by a sectional line—the formation of provisional sectional governments, and then a dissolution of the Union. Sir, this Union can never be dissolved, if representatives in Congress will only do their duty. If they will abide by the principles which their fathers taught them; if they will treat each other with kindness, and courtesy, and

conciliation; if they will bear and forbear, and be as firm and as true as the masses of the people, all will go well, and this Republic will be able to outride the dark lowering storms which threaten its existence.

Mr. DOUGLAS. I have heard the question raised several times during this debate, whether the call of the House of Representatives had been answered, and I have heard it denied that it had been. I got a member of the House to ask the Speaker whether it had been answered, and the Speaker replied that he was not aware that any answer had been received. I hope, therefore, as it obviates the whole necessity of laying this resolution on the table, that there will be no further objection to its adoption.

Mr. DOWNS. I am very sorry for the direction that this debate has taken. I am sorry for the position taken, and the feelings which have been excited; and, as a member of this body from the South, entertaining very different sentiments from the honorable Senator from Alabama, who has just addressed the Senate on this subject, I feel it my duty to disclaim the opinions he has expressed in relation to it. I do not, Mr. President, understand that when the Senator from Illinois, some days ago moved to lay this resolution upon the table, it was with any intention to defeat it, or screen the Administration from this investigation, on account of its connection with the subject of slavery. I take this occasion to say, Mr. President, that I have known the Senator and acted with him for some time here. I have always found him, and I believe that I shall always find him hereafter, straightforward and direct. He says what he means, and does what he says; and when he declares to the whole Senate here that he made the motion, not for the purpose of defeating the resolution, but with the object of getting up some other resolution, I believe the South will believe it, and will consider it a motion and a vote, not with reference to constitutional questions and rights, but with reference to a temporary convenience only.

If, then, any of the southern members here, or southern men elsewhere, are disposed to turn out of the democratic party all of that branch of the party residing at the North, I am not one, sir, and do not wish to be so understood. I do not believe, Mr. President, that they are against us. I think that their whole history has shown that they are not unfriendly to us, but that, on the contrary, the most useful and efficient exertions have been made in our behalf by them.

I believe, Mr. President, that this question is to be settled, and settled without commotion and without disunion, and whoever agitates this subject the more by——

Mr. CLEMENS, (interposing.) I rise to say that it is unfair to continue this discussion, and comment upon my remarks when I was stopped in the midst of them, at the suggestion of an honorable Senator.

Mr. DAVIS, of Mississippi. The Senator is right. I interrupted the Senator just at the point when he was going into the proofs to show how far the Democracy of the North is infected with the spirit of abolitionism. What his conclusion would have been, therefore, he has a perfect right to say that no one can know. What proofs he intended to submit, it is impossible for any one to say. I trust, therefore, that advantage will not be taken, to comment upon the few remarks that the honorable Senator did submit in part, as he was induced to give way at that point for the very wholesome purpose of stopping an agitation which might lead to still more disagreeable consequences.

I am one of those who have seen northern Democrats stand firm under the most trying circumstances; and I admired them the more for the danger which I believe they encountered in their advocacy of our rights. The Senator from New York [Mr. DICKINSON] has come out more boldly to-day in the expression of his opinions than ever before; and I venture to affirm, that never was he so poorly sustained at home as in the present crisis. I admire him the more that his courage rises the higher, the greater the danger which surrounds him. He expresses hopes which I trust will be fulfilled. I trust that the dangers which now threaten will be removed, and that the further discussion of this question will prove that he is not alone upon this floor.

The PRESIDING OFFICER, (interposing.) Does the Senator from Louisiana [Mr. DOWNS] yield the floor?

Mr. DOWNS. For explanation.

Mr. DAVIS resumed. The Senator from New York has not been alone. Other Senators have been ready to sustain the Constitution, though they may have been against the institution in the abstract. They have frequently taken occasion to avow that although, as an abstract opinion, they were opposed to slavery, yet, in their legislative action, they were ready to stand by the Constitution. Nor is this confined entirely to our own party. Who does not remember the response of the Senator from Vermont, upon the discussion of the compromise bill, and how boldly he sustained the Constitution, notwithstanding the differences of his own private opinion? I must repeat, that it is my conviction that any remarks bringing out again the controversy in which the Senator from Alabama [Mr. CLEMENS] was arrested cannot be otherwise than injurious.

Mr. DOWNS. I only wish to say a word, sir. I did not intend, in rising, to analyze the extent to which the Senator from Alabama [Mr. CLEMENS] went. But what he says here will go abroad. What I wish to say, and what I will now say, is, that what he has avowed does not agree with my opinion. I no not approve of his assertion, and I thought it proper and necessary that some member of the party from the South should seize on this occasion to say this much on that point. I am very glad that the Senator from Alabama did not proceed with his argument; still, he proceeded far enough to attract attention on this point, and to lead to the impression that other members of the South and other citizens of the South might be disposed to go as for as he did. It was to disclaim that, and for nothing more, that I took the floor. It was not for the purpose of debating this subject, which I should not wish to do, after the excitement here; but especially after the explanation of the honorable Senator from Illinois, [Mr. DOUGLAS,] who tells us that the statement of the reception of a reply by the House of Representatives is a mistake altogether; and how it got here, I do not know. I wish to say I think we ought now, by common consent, to endeavor to pour oil upon the troubled waters. I hope the proposition will be adopted, [several SENATORS: "Agreed,"] and especially that there will not be a single southern State which will vote against it.

Mr. CLEMENS. I can explain, sir, how this

matter got here. It was stated by members of the House of Representatives, and also by other Senators to me, that the answer to these resolutions was received in the House. This is the fact. The answer is there; but it has not been opened. The Speaker could not have read it; and therefore he answered that he did not know the fact. The answer, however, is there.

Mr. DOWNS. Will the Senator allow me to state, that all the information I have received, I have received from the Senator from Illinois. I have, however, no doubt of its accuracy.

Mr. DOUGLAS. The answer of the Speaker, as I understood it, was, that he knew not of any answer having been received.

Mr. CLEMENS. The answer is there, but it has not yet been opened. I would say, however, that if it is not likely to be reached soon, I will take another course. I will be perfectly willing that this resolution should be adopted here, and that we should have the answer where we can reach it.

And now, sir, I have one other matter to which I would advert in relation to myself. In relation to what I said in reference to the northern Democracy, I hold myself prepared to prove that we cannot at any time rely on anybody at the North. I do not mean to say that there are not here and there in different States individuals who are willing to go with us; but I hold myself prepared to prove that we cannot rely upon either party. I hold myself prepared to prove that what the Senator from New Hampshire said is true—that both parties have been bragging for abolition votes, and the question now is, which will go the furthest? I hold myself prepared to prove this, and in all probability I shall prove it before the close of the session.

I think, sir, the Senator from New York is perfectly right. He complains of my age——

Mr. DICKINSON. Only officially.

Mr. CLEMENS. Well, I will make no such complaint with regard to him; but I would observe that the Legislature of the State which he represents have for three successive sessions adopted resolutions against the institution of slavery. I know that he is sound, and that one or two others here are sound on this question. I know there are men scattered through the entire North who are with us, but their Legislatures are against us; their people are against us; and so far as that goes I maintain that it is true, and I am ready to prove it. The Senator from Louisiana will not dispute it, for it is a fact as notorious to him as to me. I do not mean to say that there are not some Senators who are sound on this question. I believe the distinguished Senator from Michigan [Mr. CASS] is; and I believe the Senator from Pennsylvania, over there [Mr. STURGEON] is; at least I have seen no disposition on his part to trench on the rights of the South; but that does not make the people they represent sound. We know that they are not sound on the question. Now, sir, I shall do what some of my friends have suggested I should do, and that is, to make an apology to the Senator from Illinois. I am told that my manner towards him was too much excited, and I think it was. I am sorry I should have said anything of that character when his intentions were not in the least offensive. I am persuaded that I ought to have met his advances with more cordiality at the time. I regret that anything of the sort should have occurred; and I will make him one of the promises of the Senator from Mississippi, when he promises not to speak so much. [Laughter.] I promise that I will endeavor to keep my temper.

Mr. DOUGLAS. I wish now to call the attention of the junior Senator from Alabama, in a spirit of kindness, to the fact that, under his excitement, he charged me very boldly with having been opposed to the adoption of this resolution before it had been answered in the House of Representatives, and that I had only been in favor of it when it was found that the information sought to be obtained by this resolution had been acquired.

Mr. CLEMENS. I did not make any such charge. What I said was, that such a supposition was fairly deducible from the course which the Senator from Illinois had pursued.

Mr. DOUGLAS. I am glad to hear the explanation of the Senator, and to find that the deduction was unfounded. I will merely now call attention to the fact that the answer has not been received; that we are not officially aware that there is yet any answer, or, if there be, whether it is satisfactory or not, as the seal has not yet been broken. I wish to call attention to the fact that I have been charged with a knowledge of this answer, or at least that this inference has been drawn; and I would ask whether it was not due that that should be disavowed, as I have freely and frankly disavowed everything that was considered offensive.

Mr. CLEMENS. I meant nothing offensive to the Senator. I made no charge. I simply stated that it was deducible. I did not mean to make the charge before, and I do not make it now.

Mr. DOUGLAS. I am much gratified at the declaration of the Senator from Alabama. I do not believe the Senator said what he did in any unkindness to me, or with any disposition to get up a controversy, but that it was more by accident than otherwise. I hope, therefore, the subject will be dropped.

Mr. WHITCOMB. Neither the state of my health, nor my inclination, prompt me to prolong this discussion. I am sorry it has been carried to such a length, and I hope this resolution will not again be laid upon the table. I hope it will be adopted, and that the yeas and nays will be called for. I voted before to lay it on the table for the same reason that induced the Senator from Illinois to move to lay it there. I am satisfied that many northern Senators voted for the same motion under the same motive, and I think it is but fair that we should have an opportunity of placing ourselves right on the record. I ask, therefore, for the yeas and nays.

The yeas and nays were ordered.

The question was then taken on the adoption of the resolution, and it was decided in the affirmative.

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SPEECH OF
HON. R. M. T. HUNTER,
OF VIRGINIA,

In the United States Senate, on Thursday, July 18, 1850, on the admission of California into the Union, the establishment of Territorial Governments for Utah and New Mexico, and making proposals to Texas for the settlement of her northern and western boundaries—

Mr. HUNTER said: I have never in my life risen to speak with more reluctance than I do at this time. I know that the Senate is weary of this debate. I know that the country is anxious that we should come to some decision upon these questions. For one, I would have been willing at any time to forego, and I would be willing now to forego, the privilege of speaking, if by so doing we could come to a test question on the bill. But, sir, knowing that to be impracticable, and feeling that I shall have to incur some responsibility, perhaps a deep responsibility, in the vote which I shall give, I trust the Senate will pardon me for desiring an opportunity to present a vindication of my actions to my constituents.

Sir, this bill comes before us under high and imposing sanctions. Its author is the distinguished Senator from Kentucky, (Mr. CLAY.) It is endorsed by a majority of thirteen Senators, who have been selected for the special consideration of these questions. We are exhorted to support it by considerations no less sacred than those of union and peace. We are told that if we pass it we shall heal the bleeding wounds of the country, that we shall restore peace and harmony to a distracted and a divided people. And, sir, if I believed, as the friends of the bill believe, that it would have that effect, I should regard it with very different feelings than those which I now entertain in relation to it. Peace! sir; peace permanent, honorable to every section of this Confederacy! There is nothing, there is scarcely any thing that I would not sacrifice to attain such an object as that. But I have studied this bill attentively, and I have reached the conclusion that it will not attain the ends that its friends seem to hope from its passage. I believe, sir, that if we pass this bill we shall send not peace but the sword through this land of ours; that we shall not shut but open the gates of the temple of war. And when I speak of the sword and of war, I speak not of physical but of moral force, and with reference to the agitation which is disturbing and dividing and distracting the land. I believe that it will tend to these results, because it seems to me that it is beginning at the wrong end, and that we are reversing the process which it is proper to pursue in order to quiet the agitation and settle the differences of the country. I believe that this bill proposes the surrender of right and political power on the part of the South, and that, I will not say its intention, but its end and effect will be to make the weak weaker and the strong stronger of the two contending elements in our system. I do not think we can ever obtain peace, unless we so distribute the strength of those antagonistic interests that they shall have the power to defend their rights, and power enough to make it more dangerous than profitable to attack each other. Whenever a manifest and dangerous invasion of right is made on the part of one or the other, there ought to be power enough in those who are attacked to make it dangerous and disagreeable to the assailant. Now, if I were called upon to devise a measure calculated to obtain peace and settle the agitation of the country, I would pursue a course which should strenghten the weak, and which, in such a contest, would weaken the strong. Above all, I would not take from the weak any portion of that political power which the Consti-

tution designed that they should enjoy; but, n the contrary, I would do all which the Constitution afforded me the means of doing, o give to every section of this Confederacy the power to defend their rights. A system of surrender by the weak can never give peace. The strong may surrender with impunity, because the precedent can never operate with effect against them, as they have always strength enough to prevent its repetition whenever it may be necessary to do so; but experience shows that the weak never surrender without beginning the race which ends in the prostration of all their interests and the sacrifice of their rights. If the weak surrender rights to-day, it becomes almost impossible for them to resist when another demand is made upon them to-morrow, because on to-morrow there will be not only the same physical force which drives them before it to-day, but, in addition to that, there will be the moral force of the precedent which they thems lves have established. The weak never can surrender right with impunity in contests with the strong; and I believe that, whoever reckons upon producing peace and settling agitation by any such system as this, is destined to be entirely and cruelly disappointed.

Sir, we are not without some warnings and some teachings in relation to this matter from actual experience, and whoever will look at our past history will find that the surrender which the South makes to-day, and which to-day is considered by her sons as the extreme of concession, and amounting almost to submission, will be considered as an extreme and unreasonable demand if made by her a few years hence. Why, sir, have we not seen this in our past history? You, Mr. President, will recollect the history of the Missouri Compromise; you know that in many portions of the South it was regarded as the extreme of concession, as amounting almost to submission; you know that it was regarded as the last inch to which the South could retreat at that time, and it was supposed that nothing more could ever be asked of her. But now, when scarcely thirty years have rolled over our heads, we find that if the South makes such a demand as that, it is denounced traitorous, and as proceeding from a wish for agitation, and a desire to destroy the Confederacy; it is scouted at as impracticable and impossible, and the men are almost sought to be put to public shame who ask now what the South considered as the extreme of concession, and felt almost humiliation to grant, in 1820.

But, Mr. President, I need not go back so far as that for an example, in relation to this matter of surrender of right and power on the part of the South. At the commencement of this session we know that the Senator from Kentucky (Mr. Clay) introduced certain resolutions, and those resolutions upon their appearance were immediately and utterly denounced by Southern Senators. They would not even allow a distinguished Senator from Kentucky the grace of naming a day when his resolutions should be considered and debated; on the contrary, they were denounced on the spot; denounced fiercely and violently, and, if I mistake not, the Southern press responded to this denunciation in one voice of universal accord, and yet, in a few months after, a select committee is raised and a proposition is reported which I think I can show, in whatever respect it differs from those resolutions, to be worse for the South than the scheme contained in them. But what is now said of the men who oppose a scheme wose even than that which was so much denounced but a short while ago? Why, sir, they are accused of being in favor of disunion; it is treated almost as evidence of treason that they should oppose it; it is considered as giving conclusive testimony of a disposition for strife, and a desire for agitation, that they refuse to support a scheme worse, I think I shall be able to show, than the resolutions that were so much denounced. Sir, let us compare these resolutions with the scheme of the committee. The resolutions proposed in the first place, that they would abolish what is called the slave-trade in the District of Columbia; that slaves should not be brought into the District for sale, or for transportation to other markets, and that the depots for that purpose should be abolished. The scheme of the committee proposes not only that you shall not put slaves in depot here for sale, but that you shall not deposite them even for any purposes of transportation, and, as I understand it, if you have a fugutive slave, bringing him from the State to which he had fled, you could not deposite him here for safe keeping, if this proposition should be adopted, you could not, if travelling through the dis-

trict with slaves, moving to some other State, deposite them here. And yet, sir, the decision of the Supreme Court is explicit that you have a right to carry slaves and to be protected in your property through free States, to some other slave State. So that, in this respect, it seems to me clear that the proposition of the committee is worse than the resolutions of the Senator from Kentucky.—Then, sir, the resolutions of the Senator from Kentucky promised some "more effectual" fugitive slave law, and the inference was that it was to be something better than any law that had ever existed on the subject, or as yet been proposed. What has been the result? Why, certain amendments have been proposed by this committee, and all that can be said of them is, that it makes the bill no worse than it was before, provided you consider one of its provisions as cumulative. I mean that in relation to the record; but if, on the contrary, you consider it as making this evidence necessary, then we all know and feel that it would be an obstruction in the way of the recovery of fugitive slaves, because before the master could go through the tedious process of obtaining the record and evidence from the court, the slave would have fled beyond the reach of his pursuit. In that respect too, then, the scheme of the committee is, in my opinion, worse than the resolutions of the Senator from Kentucky.

Mr. FOOTE called Mr. H. to order, and the President dicided the line of remark which Mr. H. was pursuing, to be out of order.

Mr. President, I will pass from the subject which you have decided it to be out of order to discuss, although in discussing it I was following an example set by so many others who have preceded me, and pursue a line of remark which I believe to be strictly in order. I may surely compare the bill under consideration with the resolutions of which I have been speaking, in order to show the fearful proclivity with which we are proceeding in the downward race of concession and submission. The resolutions of the Senator from Kentucky proposed to admit California "with suitable boundaries," and thus justified a hope that the proposed limits for the new State would be curtailed, if those resolutions were to be taken as the basis of our action. But the bill before us gives to California the whole extent of territory which she claims. In this respect, then, the bill is worse than the resolutions. The latter proposed to buy only as much from Texas as she claimed from New Mexico, but this bill contemplates the purchase not only of this, but of much more, which indisputably belongs to Texas, and thus enlarges the territory to be withdrawn from the jurisdiction of a slave State. In this respect, then, the scheme of the bill is worse, and much worse than that of the resolutions. So far as the Territories of Utah and New Mexico are concerned, both the bill and the resolutions propose to give them governments, and say nothing of slavery in the fundamental law which establishes them. But here a preference is claimed for the bill, over the resolutions, because it does not contain the assertion to be found in the resolutions that "slavery does not exist by law, and is not likely to be introduced into any of the territory acquired by the United States of Mexico;" but I think it can be shown that here there even is little or nothing to choose between the two. If the bill contains no such assertion, the report does contain something very like it. The reason given in the resolutions for not introducing the Wilmot Proviso is, that it is unnecessary, on account of the existing law and physical causes. But does not the report excuse the omission of the proviso, on the ground that it is unnecessary, and does it not refer to the experience of California, in which these causes were supposed by its author to operate as proof of the assertion? What gives emphasis to the inference that the proviso was only admitted because unnecessary, is the fact that wherever the South was supposed to have rights arising either from the Constitution or from compact, those rights were enforced, and their foundations demonstrated. In relation to the recapture of fugitive slaves, the abolition of slavery in the District, without the consent of the adjoining States and without compensation, the division of Texas into four States, and their admission hereafter, with or without slavery, according to their own choice, the rights of the South were distinctly stated and enforced; but when the settlement of the vacant territory was discussed, nothing was said of the right of the South to share in its enjoyment, nothing in the repudiation of the power of Congress to exclude slavery by legislation; on the con-

trary, the omission to recommend the proviso seems to have been excused on the ground that it was unnecessary. The almost irresistible inference from that report, as it seems to me, is, that the proviso would have been recommended had it been necessary for the exclusion of slavery; but we are told that the report is no part of the bill, and that we vote for the last and not the first. But it is true that the report is not to be considered along with the bill, in estimating the moral force of the precedent to be established by the passage of this bill? Is it not a rule in the Attorney General's office to consider a report in construing and interpreting a law which it recommended? In estimating the moral influence of the passage of this measure, a measure so entirely political in its character, is there any inquirer who would not turn to the report as one of the sources of explanation as to its objects and motives? The friends of this measure must thus esteem it, for they refer to its recommendations as to Texas, as one of the advantages conferred on the South; but nothing is proposed to be done as to this matter; the only benefit which it confers, is the moral force of an expression of opinion on the part of the majority of the committee. If the moral force of an expression of opinion be good for us, it must also be good against us, and if I am right in these conclusions, there is no one respect in which the compromise is better than that of the resolutions, whilst in some important particulars it is worse.

But we are told that it is a compromise, and will give peace. It is, I fear, like some other compromises which we have made, a surrender of right on the part of the South, and will lead probably to the same or a worse conclusion. We were to have peace and harmony on the passage of the Missouri Compromise. Under that hope, and from a sense of honor, the South has adhered to it since, but what sort of peace did it procure for us. Scarcely a dozen years elapsed before "the run of anti-slavery petitions commenced, and thus began the war whose object it is, we are told, to denationalize the institution of slavery—that is, to place it without the pale of the Constitution, and beyond the protection of the General Government. Mr. President, we all remember the scenes and excitement to which this warfare gave rise. The South insisted that these petitions should not be countenanced, encouraged, or even considered. The agitation to which they led endangered Southern property and life, and accordingly the House of Representatives adopted a rule excluding abolition petitions. But we were soon advised to consent to the repeal of that rule; we were told that it furnished fuel to the flame of anti-slavery agitation, and aliment to those who fanned it into fury. Abolish this rule, and we were told that they could have no means of inflaming the public mind in the North, but must perish from a want of the means of existence. The rule was repealed—that compromise made. And what is the condition in which the country is now placed? Has it given us peace, or the appearance of peace, or, on the contrary, has it not encouraged the anti-slavery spirit and made it more presumptuous? Formerly when these abolition petitions and papers were presented, the question in debate was whether we should consider them. Now the question is, whether we shall act upon them, and how we shall act upon them. Let the present condition of our legislation testify as to the fact of the peace which such a compromise has given us. And who shall tell me, after these warnings from history, that the adoption of this compromise, by a surrender of power and the rights of the South, will give us peace, and that it will not, on the contrary, lead to new and more extravagant demands. I have said that this proposition was, in my opinion, one of surrender of right and power on the part of the South. Certainly such a surrender, if tested by what the South have hitherto claimed; and to sustain that point I wish to show what the South has hitherto claimed, what has been her standard in relation to our own rights, and to compare that standard with what it is proposed she shall accept. The South has claimed, in relation to the common territories of the United States, that all the States of the Union are tenants in common; that it is a common property, and that each and all have a right to settle with their property, of every description, on all the vacant territory of the United States. That is the position which they have taken, and I do not stand here to argue it; it has been argued often, and argued too with more ability than I can bring to the task. That is her position, and what follows from it? If these be her rights, it follows conclusively that she is either entitled to a partition and division of the

territories, or else to the social possession and enjoyment of all. That is the rule of tenantry in common; it is the rule of justice and of common sense, and it is the rule which history will show the South herself has even applied to the case. She has offered to settle the difficulties of this sort in both modes. First, she agreed that all differences should be settled by a division of the territory, as in the case of the Missouri Compromise. There the rule worked against her, and territory covered by pro-slarery laws was given up to the non-sloveholding States, and she was excluded. But she adhered to the bond —she made no resistance to government for territories north of that line whose fundamental law excluded slavery. She adhered to that compromise in the Texas annexation, she offered to adhere to it in the Oregon bill, and it was moved, and I believe all the Southern Senators except one voted for the Missouri Compromise, to be applied in the same sense and meaning in which it was originally adopted, meaning thereby that slavery was to be recognized south of that line and prohibited north of it. Indeed it may be said that the South ever since 1820 have shown a willingness to abide by the principle of a division of the territory; their representatives have voted for it whenever it was presented. Sir, I believe that a majority of the South would be quieted and be content with the adoption of that principle now; and when I say that principle, I mean not in the letter but in the spirit of the Missouri Compromise. But that is not the only mode in which they have agreed to settle the difficulty.

They once proposed to settle on the principle of the social possession of the territory: upon the principle that each should enjoy all —for that was the principle, if I understand it, of what was called the Clayton compromise bill. When the territories were first acquired, and neither section had the start of the other, it was proposed to establish territorial governments, and to establish the constitution of the United States by express enactment in the territories, in order to exclude the idea that the Constitution did not go there. It did more; the bill required the protection of property in slaves, if the courts should decide that it existed. This implication, I think, is conclusive and necessary, when we look at the history of the legislation upon the bill. As it came in originally, it required the Territorial government to pass "no law respecting African slavery." That clause was afterwards stricken out, and in its place a provision was substituted, that they should pass no law prohibiting or establishing African slavery. What other interference could be drawn from that course of legislation, except that they were to protect property in slaves, in the event the courts decided that such property existed there? The very course of legislation in relation to it demonstrated that this was the intention of the bill, and it has been so construed. If that bill failed in any respect to provide for the social possession of the country by all the States of the Union, on the principle that each should enjoy all, it was in not providing by an express declaration that the Mexican law did not exist there. It was not asked for, because most Southern men believed that the Constitution was superior to the Mexican law, and repealed and put it aside; it was not asked for, because it was supposed that the courts would respect our rights; but I believe that, if it had been, the demand would have been nothing more than what is right and just; that is, assuming that all the States are tenants in common, and each ought to enjoy all, or else have a fair division of the territory. If this be so, then whatever legal obstacles may exist in relation to the enjoyment of this right, ought to be removed by Government. This, however, all depends, on the truth of the proposition which I have stated as to the right of the States in this respect; but, if it be true, the conclusion which I have drawn seems to follow inevitably. In relation to this Clayton compromise, I think I may hazard two, and perhaps three propositions, without fear of contradiction. In the first place, I hazard this affirmation: that if that bill had proposed to take in all the territory included within the limits of California, and apply the Wilmot Proviso to it, and then to extend the Clayton compromise over the residue, no Southern man would have voted for it. I think I am not mistaken in that. And I will now hazard another proposition. If the Southern men had believed that the Mexican law existed in the territory, and was not repealed by the Constitution after its acquisition, I think that none of them would have voted for the bill without a provision to re-

peal that law, because, if Congress had no right to interfere by legislation to shut us out, would it not be absurd to say that it had no right to prevent the laws of a foreign and conquered nation from excluding us? If I am right in this, there is perhaps another proposition which I might also hazard, though, possibly, with more risk of contradiction.

We of the South believe that the Mexican law was repealed by the acquisition of the territory, but if we had belived that the threats and declarations of the supremacy of the Mexican law, made by so many distinguished jurists, would operate to prevent the holders of slaves—and all property holders are timid—from going with their property into the newly-acquired territories, under the apprehension, in the unsettled state of the question, that they would thereby hazard their property—I say, if Southern men had seen that such would be the effect, I am inclined to think they would certainly have demanded a declaratory act saying that the Mexican law was not in force. And they would have done so strictly in accordance with the principle of non-intervention, as I understand that principle, and in the only sense in which I can accord and accede to it. That doctrine, if I understand it, is one which proposes to leave the question of slavery or no slavery in the territories to be determined by soil and climate—leaving it to nature while they exist as territories, and to the people when they come in as States, to determine the character of their institutions in this respect. That I understand to be the non-intervention principle. Well, if soil and climate are to decide, then it follows that Congress cannot interfere by legislation to establish or prohibit it. Not only the legislation of Congress cannot do that, but the Mexican legislation cannot do it, because, if the Mexican law intervened, the question would be determined by it, and not by soil and climate. This was the doctrine of non-intervention proposed in the Clayton compromise bill, which neither established nor prohibited slavery, but clearly implied a duty, as I have endeavored to show, on the part of the Territorial Government, to protect such property, if decided by the courts to exist. I know it is said that in maintaining the obligation to protect property you admit the right to destroy it. But I utterly repudiate and deny such a conclusion. On the contrary, the establishment of this proposition would lead to the very opposite inference. Who does not see that, if I establish the obligation of the Government to protect my property, I deny its right to destroy and confiscate it? So far from admitting the right to destroy, I deny it in the strongest possible form, when I show its obligation to protect it. My State Government is bound to protect my liberty, and when I show that, do I admit that it can enslave me without cause? It is bound also to protect my property, and when I show that, do I admit that it can seize and confiscate my property, without compensation to me for it? The United States Government is bound to protect the property in the slave on the high seas under the United States flag; and in asserting that duty on its part, do I admit it has a right to confiscate such property at discretion? And so, in my opinion, it is bound to protect it in the territories, as much as on the high seas on shipboard, and under the American flag? But that is a sort of episode, and I will return to the first proposition, which is that by which I propose to test the bill under consideration.

I said that at the time the Clayton compromise bill was proposed, if it had provided to cover all the territory included within the proposed limits of California with the Wilmot Proviso, I believed that not a Southern man would have voted for it. But, suppose I show that, by the action of this Government, direct or indirect, this territory has been placed under the operation of the anti-slavery proviso, do I not make out the case in relation to this bill, which would have condemned it in the South with the sentiments which existed there during the pendency of the Clayton compromise bill! And can I not make good this proposition? I think I can show that this constitution of California was unquestionably produced by the action of this Government in its various departments. First, by the omission of Congress to provide Territorial Governments when it ought, and which would have enabled us to try our right to settle with slaves in the country; and next, by the action and positive interference of the Executive. We know that Congress refused to pass bills which, in my opinion, were concessions and compromises from the South. Congress refused to pass the Clayton bill. Some few

Southern men, it is true, voted against it, but a large majority voted for it. It refused also to pass the proposition of the Senator from Wisconsin, (Mr. Walker,) most of the Southern men voting for it. Thus no Territorial Governments were established, threats of the existence of the Mexican law was thrown out, and the slaveholder was deterred from carrying his slaves to California. But to make the work of our exclusion perfectly certain, the Executive here intervened, and pursued a system of measures which, however intended, had the effect of shutting us out of the country entirely. Sir, I wish, and I mean to tread lightly on the ashes of the dead, but a sense of duty compels me here to speak to a point, a reference to which is necessary for the sake of historical truth, and I shall speak not in the spirit of unfriendly but historical criticism. I believe the late Executive was governed always by patriotic motives; but he might err, and in this instance I think he did err most grossly, and to the great injury and loss of the South. I do not impute to him the design, but if such were the consequences of his action I am bound to refer to them. I cannot make good my position, nor vindicate myself, without looking to the course of action which was pursued in relation to that territory. I say, then, that the Executive also interferred and pursued a system of measures which not only violated the Constitution of the United States, but led inevitably to the formation of the present California constitution, and to the introduction of the anti-slavery clause which it contains. There was no law of Congress which authorized the people of California to assemble in convention; there was no previous action even of the people of the territory calling a convention, or expressing a wish for one; but the convention was called into existence upon the invitation of the Executive of the United States. The military Governor undertook to distribute power in the territory—he undertook to prescribe the qualifications of voters, and to say what safeguards were to secure the purity of the ballot box—in a word, he undertook to control this whole matter. When that convention met, a thing occurred which, I suppose, is unprecedented in the history of representative bodies. The convention, finding that it was not strong enough, or not satisfied with the distribution of power, voted to take in not only those who were elected, but those who were not elected; and I believe it will turn out, on examination, that as many, or more perhaps, of its members were not elected than those who were. Persons who received a certain number of votes are said to have been admitted there, and when the convention was thus filled in this anomalous mode, it had the assistance to its deliberations of an Executive agent. The Executive sent out a member of Congress while he was a member of Congress, and paid him out of the treasury without authority of law. He thus conferred an important office on a member of Congress during the recess. And to what abuses may such a system lead? If during the recess of Congress the President may appoint a member to an honorable and agreeable mission, how long can we expect, when such offices become profitable and numerous, and far more so in proportion to the number of its members than now, that the independence of Congress will exist? And this agent, so paid and sent out, undertook to advise this convention in relation to their functions, as it appears from the statement of one of the members. He advised them to settle as much of this question as possible—to cover by their laws not only that portion of the Territory which was settled, and perhaps in numbers sufficient to justify the forming of a State, but to extend their action over territory comparatively vacant, and thus settle this difference. The Congress of the United States were incapable of acting upon the matter, and it was for this convention or of California to relieve them from their difficulties. And this very assembly was paid by the Executive out of the treasury of the United States, without authority or warrant of law, and was thus dependent on him, whose agent was thus advising it, for their per diem and the means of support during its session. It resulted from all this, that it was bound to adopt an anti-slavery constitution, and could adopt no other, anxious as they were to come in, and knowing that in order to do so they must offer some tempting bait to the majority here. They were aware too, that this majority was anti-slavery in its sentiments, and that the most tempting bait which they could offer was an anti-slavery provision in their constitution, and they

knew, in point of fact, that if they permitted slavery they could never be admitted; for who believes that they would have received twenty votes for admission if they had come here with a provision permitting slavery in a constitution made under such circumstances as those under which this one was formed? But this constitution, if it may be so called was submitted, to the people and received something like thirteen thousand votes. Now it is well known that in a population like that of California, where the men number more than all the women and children put together, this would not represent so many as thirty thousand people. Yet, if they had enough to have entitled them to elect a member of the House of Representatives according to the present ratio, they must have had at least seventy thousand people, of whom thirty thousand constitute a minority. That constitution, then, did not receive the votes of a majority of the people. If that be so, it cannot be said to have even the sanction of the people of California, but is, in every sense of the term, a child of Executive creation. I refer to this last fact, Mr. President, not as a violation of the Constitution, but as evidence to show that this constiution, formed without the sanction of law, has not been helped, as some suppose, to a legal existence by the consent of a majority of the people of California.

But, sir, to crown the whole, the Executive undertook to withdraw the authority of the United States, and to resign it into the hands of the California government, which was called into existence as I have described. And what is the consequence? So far as the Executive recognition can go, California is now a State, either in or out of the Union. Suppose we grant her application; so far as the Executive recognition can go, it appears that she is already a State; and, if that be so, how can she come into the Union constitutionally, unless she comes in as did Texas, by annexation—as an independent State, a State achieving its independence by a sort of bloodless revolution, and, having thus achieved it, acknowledged by the treaty-making power? And what is to result from that? Why, the loss to the United States of every foot of the public lands within her limits; and you cannot, if this be true, impose any conditions upon her in relation to those lands. But suppose she were to withdraw her application to enter the Union, in what relation should we then stand to her? That portion of our Government which is mainly charged with our foreign relations has acknowledged her to be a State. So far as the admissions of that Department are concerned, our authority would be gone. We thus must admit new States formed out of our territory when the Executive says we shall, or we may run the risk of losing them altogether. Now I ask, not from any wish to apply harsh epithets to his conduct, but merely in a spirit of historical investigation, of truthful inquiry, if there could have been a more flagrant system of violation of the Constitution than that under which this State would be thus brought into the Union? Is it not obvious that, owing to this, they were constrained to adopt an anti-slavery constitution? Is it not obvious that, owing to the neglect of Congress to perform its duty in relation to that territory, and owing to the course of the Executive, that it was impossible that slavery should not be excluded, and that the South has not had a fair chance to enjoy and settle it? Now we are called upon to vote for a bill which proposes to include a State thus formed, and thereby to sanction all this usurpation, and say, as in effect we would by that vote, that the object of excluding slavery is so high and holy that it is above all the obligations of compact, and that its accomplishment justifies encroachmsnts, usurpations, and invasions of the Constitution itself? Is not that the way in which the precedent will read hereafter? So it will stand upon the page of history; and can I be asked to vote to let in California under such circumstances? to let her in; whether as a part of this omnibus bill, or whether she comes in alone? I cannot; for I hold it to be my duty, not only by my speech, but by my vote, as far as I can, to rebuke the acts of interference on the part of the Government, the effects of which have been as certainly to exclude the South from that territory as if the Wilmot Proviso had been passed in terms by Congress. And what is the inducement held out to me to vote to sanction such a wrong? We are told that we gain something in the other parts of the bill. First, however, we are told that we cannot help it; and that may be so. It may be that a majority have the power and the will to bring her in; but

let the wrong, if it be one, and I believe it is, rest on other shoulders, and not on mine. Do not ask me to sanction a system such as this. Do not ask me to give countenance and authority to a system of usurpation such as that to which I have been referring.

It cannot be said that the present condition of things in California constrains Congress to admit her as a State. On the contrary, if Congress should view this case as I do, and feel disposed to vindicate the Constitution of the United States, it might remand California to its territorial condition, and call a Convention of the people, in a regular and legal manner, and thus permit them to form a State, with suitable limits, and then admit her with or without slavery, according to the pleasure of her people. This would lead to but little practical convenience so far as I can see. It is impracticable, because it does no suit the pleasure of a majority here, who have the power and mean to admit her. Is it too much, then, to ask that those who profit by the wrong, and not those who suffer under it, should become responsible for it?

But we are told that there are other provisions of the bill by which we gain something—that it gives us territorial Governments in Utah and New Mexico, based on the model of the Clayton compromise. Yes, sir, it gives it to us after the North have had the start by two or three years in the opportunity to settle the country, and under circumstances which render it doubtful to the slaveholder whether he can carry his property there. Does any man suppose that under such a Government a slaveholder would carry his slaves there, unless, in addition to what is now contained in the bill, there was something done to quiet all questions as to his right so to do? It is true that there are many in the South who believe that the Mexican laws do not exist there, but will the owner of his property be content with that? Will he not inquire as to the opinion of the Senators from Kentucky, from Michigan, and from Massachusetts; and will he not see that the most distinguished of the advocates of this bill all maintain that those laws do exist and exclude slavery? He would hardly carry his property into a country where his title was to be exposed to the dangers of a lawsuit, when there is so much territory vacant in which his right to carry slaves is undisputed. So that, in all probability, the Southern slaveholders would never settle a foot of this territory. I do not believe, under the practical operation of this bill, we shall get a square inch of it, but that we shall lose all the country which we acquired by the war with Mexico. And I confess I feared, when this committee was formed, that the South would be required to give up and surrender this much; but I did not think that an attempt would also be made to take from her 120,000 square miles of Texas, to which I believe she is clearly entitled, in order to place it under the chance and risk of being converted into free soil. In other words, Mr. President, I feared that the South would be called upon to give up the coat which was in dispute, but I did not expect that she would be required to give up the cloak also. As it now stands it is the property of Texas, and under the dominion of pro-slavery laws, and if we take it away from her we at least run the risk of having the Wilmot Proviso applied to it. It is no comfort to me to know that twenty-five votes were recorded in favor of this proviso not long ago in this body, thirty constituting one-half of the whole number. It is no warrant for hope with me to know that nearly all the Northern States have instructed in favor of it, and that probably a large majority in the other house are for it, and are restrained with difficulty from applying it to a country where they are told slavery is excluded by Mexican law, and on account of natural causes, but who probably would insist on applying it to any portion of the territory ever said to belong to Texas. This feature of the bill, would, as it seems to me, lead to the most bitter and intense excitement hereafter. It is now easy for gentlemen to excuse themselves from voting the proviso as applied to the Territories, on account of the alleged existence of the Mexican law there, but it will then be said, here is a case for which you can give no such reason. Northern gentlemen will then be urged irrestibly or to their own destruction, to apply the proviso to that territory, while, on the contrary, the South will resist its application with the more vehemence to territory which has once been under the dominion of pro-slavery laws, than they would perhaps to any other portion of the domain of the United States.

But we are told in answer to this, that the

territory does not belong to Texas, and we are also assured that she will get more in this way than in any other. Sir, if the territory does belong to Texas, as I think has been conclusively shown by her Senators and Representatives, I do not know how it can be said that she will get more in this way than in any other, unless we are to suppose that there is a majority here who have the power and will to deprive Texas of her territory, whether she is entitled to it or not. And if this be so, why ask us to consult here, or to reason on the subject; for in that case it would be useless to show that the right was on the side of Texas, and that it is a duty and justice to her to acknowledge that right? I make no such presumption. I presume if it be shown that the territory belongs to Texas, it will be declared to belong to her by Congress, and she will be protected in its enjoyment. Now, that the territory does belong to Texas, I think we are precluded from denying by our own acts—precluded by the opinion of our own courts, and precluded also, I was about to say, in the opinion of every honest man—I will not say that, however, because I know there is a difference of opinion on that subject between honest and able men on this floor—but I believe, when the heat of the moment and excitement of the day shall have passed away, no man will look on the page of American history which records the fact that we disputed the title of Texas under existing circumstances without a sentiment of regret, or it may be a pang of shame, that the truth required it to be told that in a misguided moment we had been betrayed into such an error.

I do not go into that old question of what were the boundaries of New Mexico before the revolution in Texas I hold that to be an immaterial issue. Yet I believe it can be shown that at the time of the war, or of the declaration of independence by Texas, that the boundaries of New Mexico did not run down so low as the Senator from Missouri seems to think. I believe it can be shown upon the authority of Muhlenfordt, next to that of Humboldt, and in some respects better than that of Humboldt, because more recent, that the boundaries of New Mexico did not extend below the parallel of 31° of north latitude. But I hold all that train of inquiry as relating to an immaterial issue. We are now bound by our own acts, in which we have acknowledged the right of Texas to all the territory east of the Rio Grande, from its mouth to its source. We took Texas with this claim. Our ministers were instructed to maintain this claim, and Mr. Buchanan so instructed Mr. Trist. The United States Government, by its Convention in 1838, with Texas, acknowledged its title to what it claimed by recognizing so much of that claim as related to the former western boundary between herself and Mexico. She received Texas into the Union with a known and declared claim to the whole of the Rio Grande as her western limit, and from that moment became bound to relinquish that territory to Texas in the event that she should make it good against Mexico. She was thus bound, because she then became the agent through whom alone the rights and claims of Texas could be maintained as against a foreign power. Our President, Mr. Polk, in reply to the Governor of Texas, acknowledged the right of Texas to the country, and excused his military possession on account of the necessities of war. A mad was made a part of the treaty of peace with Mexico, and that map recognized the Rio Grande as the western boundary of Texas. In every way in which it could be done, the title of Texas has been recognized by our Government. Especially did this Government recognize it in the declaration of war with Mexico. We justified that war upon the ground that Texas had claimed, and justly claimed, this territory on the Rio Grande. It was said that American blood had been shed upon American soil; and if it was, then Texas had as good a claim at the source of the Rio Grande as at the mouth. It is true, she did not enjoy the actual possession, the "*pedis positio*," any where along that line, but it was upon her claim to this that we justified the war with Mexico. And can we turn about now, and set up the claim of Mexico against Texas? Can we acknowledge before the world that we entered into this war without good cause, and attempted to justify it by a falsehood? Can we thus recall our own admissions, our own recorded acknowledgments of the title of Texas, in the hope of gaining some advantage by it? What has our own Supreme Court decided in a similar instance? What

is the dictum of Judge Marshall in relation to this very question? He says in the case of Porter & Elam vs. Neilson, 2 Peters, 309:

"After these acts of sovereign power over the territory in dispute, asserting the American construction of the treaty by which the Government claims it, to maintain the opposite construction in its own courts would certainly be an anomaly in the history and practice of nations. If those departments which are entrusted with the foreign intercourse of the nation, which assert and maintain its interest against foreign Powers, have unequivocally asserted its right of dominion over a country of which it is in possession, and which it claims under a treaty; if the Legislature has acted on the construction thus asserted, it is not in its courts that this construction is to be denied."

But, sir, it is said that the United States is not to be precluded, on account of being the agent in making this acquisition for Texas, because it is the agent for the other States also, and Texas would thus get a larger share than she was entitled to. It is to be remembered that if Texas gets more than other States, she risked more. Mexico claimed the whole of Texas to the Sabine. Suppose the cases had been reversed—that Mexico had been strong and we weak, and we had gone into such a quarrel. It might have resulted that Texas would have lost all. And if, on the other hand, Texas having staked more, she gains more, is it not a fair compensation for that risk?

But I hold that we are precluded by our own acts from disputing the authority of Texas now; and I hold that it is always the wisest and the best course, where there is a dispute as to boundary between this Government and a State, unless the case be one of flagrant wrong, for the Government to yield to the State; for there is no common arbiter between them, and I protest agains the doctrine that the Supreme Court can try a title between a sovereign State and the Confederacy. There is no common arbiter, and no way to settle it exeept by some mode agreed upon between the parties. It would be far wiser and more prudent, in such instances, for the United States to yield and give up the territory. But, sir, in this case the United States is forced by her own avowals, by her own committals, to admit the right of Texas, and how would she stand on the page of history if she were to be presented as in one breath disputing the title of Texas, huckstering to lower her demands, and then offering money to purchase this title? Sir, such a precedent as that would have an unseemly appearance upon the records of a great nation. But we are told that the people there are reluctant to live under the government of Texas, and that we should have difficulties from that sourse. There is more than one mode of escaping that difficulty, without ceding away one hundred and twenty thousand square miles of land belonging to Texas. But is there in point of fact, any reason to believe that the people would not be satisfied under the government of Texas? If it had been asserted by every body, in all the departments of the Governments, that the title of Texas was good, is there not sufficient reason to suppose that the people would have been reconciled to it. There may have been, perhaps, some ambitious aspirants for office there, who wished either to sustain themselves in, or to secure office who would have been dissatisfied; but I believe the main body of the people would have been contented. Now, it seems to me there are two ways of settling this question without the opposition of the inhabitants. In one way the South will retain the power and importance to which it is entitled, if slave States are made out of the whole of Texas; in the other mode they may, and perhaps will lose this opportunity for increasing their political importance. I believe that the territory of Texas furnishes the only means by which the South can probably increase in political power, and I believe she is bound by every consideration of prudence, of self protection, and self-defence, to hold on to all the political power she has. In the other way it is to be settled, and settled peaceably, I acknowledge, but by taking from the South this and the only chance which she has for increasing her weight in the Confederacy.

But, Mr. President, we are told the South ought to take this because it is the best thing they can do, because it affords at least the chance of escaping insult. I say, with respect to that argument, that it would apply as well to the Wilmot proviso as to this or any other measure, because it implies that we are to submit whenever a measure is desired by the majority who have the power. But they are not content that the measure should be passed by those who alone take its benefits; we must aid in its passage, although we take nothing by the bill; because, otherwise, the plan called the Executive plan might be carried into execution. In my opinion, both plans are wrong. According to both, you admit California as a State with the limits which she claims, and thus offer a great outrage to the South. According to both plans, you escape the insult of the Wilmot proviso; but the Executive plan has the greater merit of proposing no transfer of territory from the jurisdiction of Texas. There is, however, a great and decisive difference between them, so far as I am concerned. If the Executive plan goes into operation, it does so against my vote; but for the plan of the committee I am asked to vote, and become responsible. I am thus asked to aid in establishing the precedent by which the South, in my opinion, is to be so much injured,

and thus give my bond not only to make no complaint of this injustice which is done me, but to submit for the future to any similar violation of my rights. Sir, I cannot do it; there is no difference between them which would justify me in voting for either. I am against both; I will institute no comparison between them. Sir, I recollect that old Hollinhed, speaking of the Low Countries, says that, between the Spanish Government and the Popish Inquisition, they were like spice between the pestle and the mortar. I think that, between the plan of the Committee of Thirteen and that of the Executive, the South may truly be said to be like spice between the pestle and the mortar; for, between the action of the one and the non-action of the other, it is likely to be ground into dust and powder.

If I have been right in my examination of the arguments in favor of this bill, there is but little left of them except the appeal to the friends of peace to pass it as a measure of peace. As I said before, I see no hope for peace from the passage of any such measure; it reverses the order in which we should proceed to attain that object; it proposes to put an end to the contest by making the weak weaker and the strong stronger. If it be the purpose to obtain peace by forcing the weak to surrender unconditionally to the strong, then, sir, this is the method; but if we mean to preserve not only the peace of the confederacy, but the rights of all who compose it, then we ought to strengthen the weak and weaken the strong, so far at least as this contest is concerned.

Mr. President, I believe it is useless to give rights under any system of government unless you also give power to defend them. If the interest is small, the temptation to attack is small, and it requires but little to defend it; but if the interest be great, then the reverse of all this is true. Every interest, great or small, in a government, ought if possible to be guarded by power enough to enable it to afford as strong temptations to leave it at peace as can be furnished by any motive for attacking it. No man can weigh or measure these things with mathematical precision; but, sir, I think I hazard nothing, in the judgment of any impartial person, in saying that the power of the South ought to be increased and not diminished at the present period of our existence. I do not say that an actual equilibrium between the power of the free and the slave States is necessary to secure the continuance and harmony of the Union. I do not ask for any change of the Constitution; but I do express the opinion that it would be better for all parties, for the peace and the happiness of the whole, if somewhere in our Government there was an equilibrium of power between these great antagonist interests of our social system. But, whilst I believe this would be better, I do not say that it is necessary, but I do think that it is essential for the happiness and perhaps the union of the States that all the constitutional avenues to political power should be kept open to the South, and that any accession of strength to her would be a positive benefit to the interests of peace and union. I have no hope of convincing any Northern man of the truth of this opinion; perhaps neither he nor I could recognize the other as an impartial judge upon this question; and yet such, I think, would be my conviction if I were a Northern man. I do believe that whatever increases the strength of the South, whether by positive additions of power through constitutional means, or done by party organization, is so much gained for the cause of peace and union, and those who desire to pursue those ends should encourage and not discredit the efforts which are made to unite Southern votes and efforts in the defence of Southern rights. Give her in some mode the power to protect herself, and if we cannot always keep the peace we may long continue to prevent mischief.

Mr. President, I have no hope or belief that we can do any thing here which will keep down all agitation upon this disturbing question. This results from the contests between the two great antagonist elements of our social system, the slaveholding and non-slaveholding interests. Here are the forces whose opposition results from the nature of our system, and that opposition developed itself at the formation of our Government. Like the Hebrew twins, they came into the world with the heel of the one in the hand of the other, as an emblem and omen of the perpetual strife which was to exist between them. These, sir, are contests which we cannot effectually quiet; heats, collisions will grow out of them; but if we were wise, we might prevent very serious mischiefs to which they may lead. This would be effected by increasing the *vis medicatrix naturæ*, the self-restoring principle of the system, which, after all, must depend upon a proper distribution of power between the parts. What rational fear can exist to justify an opposition to permitting the South to enjoy whatever addition of political power may be open to her through constitutional means? That the non-slaveholding States now possess the larger share of power, and must continue to increase their relative proportion, is manifest to all. If the interests of peace and union would be increased by adding something to the strength of the weaker party, why should not every American who is friendly to those objects be willing to use the means necessary for that purpose? What is there in the political, industrial, or social position of the South to justify any opposition to her possession of a fair share of power in our political system? That her political action has been conservative hitherto, is at-

tested, I think, by the whole course of our past history. In an industrial point of view, she undoubtedly possesses the largest single producing interest of the Union. In the product of cotton she stands without a rival; and upon that product depend the subsistence and employment of almost as many persons out of the slave States as within them. Is it not a matter of deep interest to the Northern capitalists and manufacturers, the Northern ship-owners, mariners, and merchants—nay, to the whole world, that this vast productions should be protected from assaults, and permitted to proceed in peace? And what is there in the social condition of the South to justify a fear on the part of any man at the idea of allowing that population a fair share of political power? In what other portion of the Union do we find a rural population so complete in all the elements of strength and allegiance? And does not history teach that a country population is the safest depository of political power? I do not profess to know much of Northern habits, or the structure of Northern society, but I am told that the man who wins wealth or station there removes to the town to enjoy it. In the South the reverse is the case; the man who wins wealth there will buy a farm if he can, and move to the country to enjoy it. The North grows far more relatively in the town, and the South in the country population. The one represents, perhaps, more of the elements of progress, and possesses a more energetic social organization, but the other has more of stability, and moves with a firmer and more assured strength. Both elements are necessary to complete the structure of society, and neither should despise the other.

Mr. President, I have been at pains to point out what seemed to me the true path to public peace and social prosperity, because I fear that every step which we take in the direction of what is called the compromise bill, is a departure from the road to quiet and safety. What sort of a compromise is that which a majority of the stronger party—I mean the North—vote against and repudiate? How can it bind them? Whom amongst the agitators upon this question are we to conciliate by the adoption of such a measure? The first class of agitators is composed of those who believe that slavery is a sin which they owe to earth and heaven to eradicate. They hold this (some of them) to be a duty higher than the obligations of constitutions or compacts, and agitate every where, through the press, the church, public assemblies of every description, to make the institution odious, dangerous, disagreeable, detestable. Others amongst them admit the obligations of the Constitution, but search for every opening through which they may discharge their weapons at the institution upon which they are warring. These constitute a large and formidable body. Will they be induced to desist from their purposes by the passage of such a bill as this? On the contrary, will they not be stimulated by success, and regard this as a cheap and easy victory? Will they not say "behold what we have already accomplished, and how much success attend us? The South no longer dares to demand the Missouri compromise; she dares not insist upon a division of the territory, but abandons it all to escape the insult of a restriction which her surrender makes unnecessary. Our anti-slavery petitions are no longer denied a consideration in Congress; they are not only received, but are producing their fruits. Already is Congress acting upon the subject of the slave-trade in the District of Columbia. Have we not already met with success enough in our past efforts to stimulate us for the future?

But there is another class of agitators upon this subject. They may be denominated as camp followers of the first; they consist of men who understand the power of a third party, organized upon an idea stronger than the ties of parties, merely political. They attach themselves to it to obtain its aid in advancing themselves in the church, in society, and in the State. Will any of these be deterred from an agitation hostile to slavery by the adoption of this scheme? Surely not.

But there is yet a third class of agitators, more numerous and occasionally more dangerous than both of the others. I mean those who agitate for political purposes, without any particular feeling upon the subject of slavery, either the one way or the other. But they represent what may be called the capitalist interest in society, and they regard the Southern power as hostile to their schemes. The Southern proprietor represents labor, and it is his interest that the wages of labor should be high. In all the wars between labor and capital he is therefore the defender of the former. Upon the subject of banks, tariffs, and in all the schemes by which Government is invoked to give capital an indirect advantage over labor, Southern influence has been felt, and often fatally felt, by the former. For this reason the Northern capitalist has shown himself hostile to every increase of political weight in the Confederacy on the part of the South. Upon that question he is consistent and undeviating. He never fails to oppose any measure which could increase in the least degree the relative power of the South in the Confederacy, because he regards that power as hostile to him. Upon the mere subject of slavery, his agitation is occasional and not steady. He agitates for other purposes, and not from any hostility to the institution. He will agitate whenever there is a question of extending Southern power to get up a feeling at home which otherwise might not be directed against such an extension. He also agitates sometimes for the same reason which used to induce France, when at war with the English, to stir up their Scotch

neighbors, to produce a division at home. If Southern influence is about to become dangerous to his schemes of protection or assistance, he is then willing to give them trouble at home, to alarm them if possible so deeply as to deter them from attending to his measures, or to prevent them from opposing him to get peace at home. Upon this subject, sir, history has something to say. It was not until it became evident that the protective system was reeling under the blows of the South, driven as it was almost to madness and desperation, that the anti-slavery war assumed its most dangerous form. If the tariff was to fall before Southern agitation, then slavery, the great Southern interest, must totter under Northern agitation, and upon that institution blow after blow has fallen, until we have reached our present condition.

How often have we heard certain Northern Senators adverting in bitterness of spirit to the fact that the votes of the Texan Senators passed the tariff act of 1846? Who does not see that this feeling has much to do with the determination to exclude the South from every foot of territory acquired from Mexico? Sir, we have already heard more than obscure intimations that the true grounds of compromises were between the slavery and protection interests. But the Senator from Massachusetts, in speaking of the ambitious spirit of the cotton interest, forgot to say that there were two classes of the cotton interest, the one in the free, the other in the slave States, with opposite views, in some respects, and the former, as I think, far more aggressive than the latter. If Mississippi has her cotton planter and slave owner. Massachusetts has her cotton lord, whose capital is engaged in manufacturing that fabric; operatives depending upon that employment for subsistence, and ships, and mariners, and merchants largely engaged in the transportation and exchanges of that raw material and its fabrics. But, as I said before, the cotton interest North has in some respects different views from the cotton interest South. The first desire to make slave labor low, and cotton abundant and cheap; the latter desire to make their labor high, and to raise the price of cotton. The former wish to confine all the slave labor, therefore, to the cotton lands; the latter have a deep interest in extending it to other employments, and over a larger surface. In this difference of feeling and interest is to be found, perhaps, one of the bitterest elements in the present strife. If slave labor had been permitted to be employed in California, there is every reason to believe that it would have gone there to a great extent. We have the evidence of a member of their convention, quoted by my colleague, who measured the value of a year's labor of a slave in thousands of dollars.

We know too, that in all times mining seems to have been the employment peculiarly fitted for slaves. It was carried on by Indian slaves before the Spaniards came, and it was to relieve them that African slavery was introduced. So soon as the mines had fallen into private hands, slaves would have been employed in them, had the Government permitted it. They would have gone, probably, in great numbers from Maryland, Virginia, and North Carolina. Why should any Northern philanthropist object to it? Was it not better, if slavery was such an evil, to relieve the old States from it, and sent it to vacant territory? In that point of view, yes, but in another far worse. It would have raised the price of slaves, of slave labor, and of cotton. It would have diverted a great deal of that sort of labor from the production of cotton. The general belief is, whether correct or not I do not say, that slaves will leave the grain-producing States in the course of time. To concentrate them in the cotton States must, for a long time, be regarded as a valuable object to those who desire to see cotton abundant and cheap. Now, unless this bill should give these persons all the territory, and all the power in dispute, how is its passage to satisfy them? And if those are the terms on which alone they can be quieted, how is the South to be satisfied by it? Mr. President, I acknowledge that this class of agitators sometimes pause in their work; I own that it would give a period of comparative quie if they could be detached from the others, and that the war is fiercest and most dangerous when all of these forces are united. But, sir, I do not believe that this bill, much as it concedes to them, would satisfy them; they have further purposes in view, and will go on until they either reduce the South to unconditional submission, or find that it is impossible to do so.

I fear, sir, that this bill, instead of opposing new obstacles to the march of the aggressive spirit which wars upon the institutions of the South, is removing from its way some of those which already exist. I have indicated what I believe to be the path of peace, not from any hope that it would be pursued, but because I believe it due to the truth to do so. I know, sir, that what I have said will have no effect in turning the purpose which is formed. I shall probably be denounced, as others have been, for even looking too closely in the face a proposition which bore the name of compromise. To such denunciations I am generally almost indifferent. I know for what puposes, and by whom, a war of epithets is usually waged. The very declaration of such a war, in the general, is evidence either that the weapons of reason are few in the armory of those who wage it, or else that the arm is wanting which is strong enough to draw the bow of Ulysses. But, averse as I am to notice such idle missiles in the general, yet upon the present occasion, when the public mind is so sensitive, it is possible that there may be persons who are distrustful, and ought to be relieved upon this subject. So far as I am concerned, I

am unwilling that any honest man, or sensitive woman, or inquiring child, should believe that I was capable of conceiving any purpose against this Union, and would not make any reasonable sacrifice to maintain it. I believe, Mr. President, that I have voted for everything which bore the semblance of a fair compromise, upon the subject of slavery, since I have been in Congress. I voted for the Clayton Compromise; I voted for the scheme offered by the Senator from Wisconsin; I have voted for the Missouri Compromise; I would vote for it now, if offered according to its true spirit and effect. I do not vote for this scheme, sir, because I do not regard it as a compromise; I look upon it as a surrender on the part of the South. I do not believe that it would either give peace or do justice. I am called upon to vote for the admission of California, with an anti-slavery constitution, which was not the result, as I believe, of natural causes, or the spontaneous movement of her people, but of the action, direct and indirect, of the General Government, which has at last reached this end, through more than one breach in the constitution which gave it being. With these opinions, how can I vote for such a bill? How could I do it with a decent degree of respect to the resolutions of my State? What is the meaning of the denunciation of the Wilmot Proviso, and "kindred measures," if such a course of measures as brought California here petitioning to be received as a State is not to be included in that denunciation? But I will not repeat my objections to the measure.

Mr. President, I have not been loud in my professions of attachment to this Union, because I was not aware that I had done any thing to bring that attachment into question. I have had also another reason for this forbearance; I have thought, sometimes, that these professions were used to cover and cloak unworthy submissions to power and improper surrenders of right, and I did not choose to incur such a suspicion. But, at the same time, I believe I have shown by my past course that I would do any thing reasonable and proper to preserve it. I believe my present course tends to produce the same result; for I am defending not only what I deem to be the just rights of the South, but the Constitution of the United States, as I understand that instrument. And if the time shall ever come when it shall be treason to the Union to demand justice for the South, then the days of this Union will be numbered. On the contrary, I believe I strengthen it by what I do to promote justice, and to sustain and defend the Constitution.

Sir, I have not been in the habit of considering the Union as in danger. I have looked upon disunion as a thing scarcely possible to occur. It may have been a superstition, but it has seemed to me that there was so much of human destiny, so much of human hope stake upon this experiment of ours, that I could not believe the kind Providence whose sustaining hand has been so manifest in our past history, would permit it to fail. Sir, we have already achieved so much, that our growth and success must be accounted as a marvel, and almost a mystery; for known causes will scarcely account for it. And still our progress is forward and onward, stimulated by every motive which can awaken hope or fire enthusiasm in the human breast. Vast associated interests march together in that grand procession, and these interests contain all the elements of human grandeur and prosperity. The bonds of brotherly love are not yet broken; the cords of kindly feeling have not fretted asunder. We have our traditions, too—traditions of trial and of glory, to which we cling with pride and with fondness. They do not extend, like those of older nations, into the remoter regions of fable or of old, but they already begin to grow faint in the distance, and shed their dim religious light upon the path over which we have passed. When we looked to the future, to the prospect before us, the imagination pauses to measure its strength for the flight which is before it.

Mr. President, what more enviable position can any man occupy than one from which he may look backward with so much of pride, and forward with so much of hope? Is it to be supposed that any sane man would wantonly sacrifice it or abandon it, except under a sence of the sternest necessity? But, sir, we will sacrifice it inevitably, if we forget that the order and peace of this grand possession depend upon the mutual affections of its members; that these mutual affections depend upon justice and fair dealing to each other; and the bond of our peace is broken, the covenant of our liberties dissolved, and the chart of our progress destroyed, when we set aside the Constitution of the United States. That man ought not to be rebuked who steps forward to defend this instrument, with even a too eager zeal, for his is a pious work, a holy zeal, and, if erring, he errs on the right side. Such a man deserves the respect of every honest man, and of every lover of well-regulated liberty. It is to defend this sacred instrument in my poor way that I stand here to-day. I should be insensible to the highest duty of patriotism if I were unwilling to fall here tomorrow, if by so doing I could perpetuate this covenant to my countrymen, not in its letter merely, but a inits spirit and truth. Sir, I will stand by the Constitution, by the Union which is prescribed in that Constitution, but I cannot vote for this bill upon any considerations which as yet have been presented to me.

Mr. President, the Senator from Massachusetts admonished us the other day that the fate of this bill might be in the hands of the South; and he seemed to think that we were incurring a a deep responsibility, and running the hazard of

bill, it is demanded of us why we do not come forward and sustain it? If it be true that this bill does give up every thing that we contend for in relation to these Territories, are we not more deeply wounded in being asked thus to inflict an injury upon ourselves, and to participate in the perpetration of a wrong upon our own section, than if another, strong in his superior force or power, wantonly offers us an insult.

Sir, so far as insult is concerned, if that bill is to have the effect in regard to the South which I believe it will have, I do not see how we can escape from insult by sustaining it. If the North is to have the benefit, then let the North pass the bill by her own votes.

But the Senator from Massachusetts says we ought to be cautious how we act, because we are in a strange company, in company with men with whom we have never acted before. Sir, when I hear his speeches, and the speeches of some to whom he refers, I must own that I much reproach, if we did not come forward and sustain it. Sir, I ask why should the South sustain it more than the North? The North has a majority of votes upon this floor. And has the North no interest in peace and union? Are these considerations only for the South? Why, then, when this bill gives every thing to the North, does not the North come forward and vote for it? Why ask us to support a bill in which the North gets every thing, as the Senator from Massachusetts distinctly asserts? Why ask us to help to establish a precedent by which our rights are sacrified, and thus give our bond, by aiding the work, to make no complaint of this outrage, or of any similar wrong which may be inflicted on us hereafter?

Sir, if you take the most distinguished advocates of this bill, they all tell you the same story. Ask the Senator from Kentucky if he believes, after this bill passes, that you can carry a slave into these Territories, and he will tell you "no." Ask the Senator from Michigan, ask the Senator from Massachusetts, and they will both reply in the same language. And yet, in the very breath in which this exposition is given of the would rather be found in his company than theirs. But when we come to action, and I find them aiding the South to defeat a bill by which, according to the Senator's own admission, she loses all chance for the territory in dispute, whilst he is doing his best to pass it, I am constrained by a sense of justice to admit that when we come to deeds their company is better than his. I believe, sir, the case is one put in the Scripture of the two men, one of whom said he would do it, but did it not, whilst the other said he would not do it, but did it; and the Scripture judgment I think is in favor of the deed and against the word. But by way of relieving the Senator from Massachusetts of all apprehension as to any permanent association of this oddly assorted company, I beg leave to assure him that we have never met together in caucus yet, nor have we adopted a common seal. If he wishes, however, to see the association broken up, and the old work of opposition going on between us, let him defeat the bill, and he will then not only gratify these desires, but himself have the pleasure of that company which he so much grudges us.

But, sir, is this a proper manner in which to treat so grave and important a subject as that which we are now considering? Do we stop on such an occasion to enquire who is voting with us and who against us? No, sir; no. There are higher questions involved than that of those with whom we are acting to-day or shall act to-morrow, higher questions than those of the popularity or position of this or of that man. Upon these questions depend the peace, the happiness —I will not say the union—of the country. Sir, peace and happiness are stakes high enough to enlist the attention of every statesman. They are objects which should induce us all to pause before we act, and to consider what mighty consequences may follow from a mistaken course. Sir, I believe in my conscience that, if this bill were to pass, it would be the worst movement and the worst augury, so far as this Union is concerned, that I have ever seen since I have been engaged in public life.

REMARKS

OF

HON. WILLIAM R. KING,

OF ALABAMA,

ON THE COMPROMISE BILL,

IN SENATE, JULY 19, 1850.

WASHINGTON CITY,
1850.

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OF ALABAMA,

On the Compromise Bill, in Senate, July 19, 1850.

Mr. KING. — Mr. President, as I stated on yesterday, when I offered the amendment to the amendment of the honorable senator from Mississippi, it is my intention merely to make a statement of the different measures proposed by the select Committee of Thirteen, and to assign as concisely as possible the reasons that would influence my vote on each of these measures taken seperately. This becomes the more necessary, inasmuch as I have on several occasions differed with my friends from the South, as my votes have manifested: and, as I have reason to believe, in consequence of that difference, the position that I have occupied with regard to that report of the Committee of Thirteen, has not only been misunderstood in the country, but even by several honorable Senators. I shall proceed, therefore, to state succinctly, the reasons that will influence me, and have influenced me from the beginning, in supporting certain portions of the bill as reported by the Committee. Yet at the same time I must declare here, as I have declared on every occasion to individuals who took the trouble to converse with me on the subject, that unless the bill undergoes considerable modification, it is utterly impossible for me—believing, as I do, that the rights of the South will not be secured by this bill in its present shape—to give it my support. As it is not my intention to engage in any discussion that may arise hereafter upon two of the measures that have been reported by the Committee of Thirteen, I hope the Senate will indulge me in stating what were the grounds upon which I consented in the Committee to the reporting of the bills not now under consideration. I have no intention to enter into a discussion of the merits of those bills. If that permission is accorded to me, I will call the attention of the Senate to the first bill, being the bill to abolish slavery in the District of Columbia. I think that my friend from Virginia, Mr. HUNTER, who spoke on yesterday, misunderstood the provisions of that bill, or he would not have made several of the objections which he urged upon the Senate. If, however, in the course of the examination, it is found that the objections suggested by the honorable Senator do exist, I feel confident that they will be so amended as to steer clear of those objections or inconveniences, and I am ready to admit that the provisions found in the law of Maryland emancipating the slave, which is proposed to be applied to the District, is objectionable and should be stricken out. I take it for granted that the honorable Senator is not opposed to the principle of the bill itself. And I know, as well as I can know anything in which I was a participator, that it was the intention of the Committee so to arrange the bill as simply to break up those slave pens that have been established by negro speculators within the District of Columbia, against the wishes of the great majority of the people of the District, and which are calculated to shock the feelings of Southern as well as Northern men. I stated at an early period of the session that I never saw the day when I would not vote in favor of breaking them up. I will do so now; and I have too high a confidence in the humanity, in the proper feeling of the Southern people, to believe for a moment that they will condemn me for doing what my conscience tells me that strict duty demands. The next bill to which I wish to call the attention of the Senate is the fugitive slave bill. To that my honorable friend from Virginia also found very serious objections. Now with regard to that bill, there is not a Senator upon this floor, as far as I know—perhaps there may be one or two exceptions—that has not manifested, either by word or by acts, a disposition to enforce that provision of the Constitution of the United States, which requires that fugitive slaves should be delivered up.—Some speak—and I was sorry to see such a proposition find countenance in high quarters—in favor of a trial by Jury in the State to which the fugitive has fled, which would render the law entirely inoperative. But I will not now discuss that. The bill is on your table; and whenever it comes up, unless it is presented to the country in its proper light, I shall then perhaps find it my duty to give my views on that particular question.

But with regard to the opinion of the honorable Senator, that the record evidence required was calculated to defeat the very object that the bill had in view, why, sir, there was not a member of the committee that did not believe it was

giving additional security, inasmuch as record evidence, when it could be obtained, would be respected more in the free States to which the fugitive had fled, than any other kind of evidence. But further than that, it relieved the owner of the slave from the necessity of taking persons with him to establish the identity of the slave. This accumulation of evidence does not prevent the pursuit of the slave; not at all; the owner of the fugitive slave may obtain it or not, as may be most convenient to him. It was considered to be accumulative and therefore to, give additional facilities to the owner of the slave in obtaining his property. Sir, there was another motive, which perhaps was a very proper one to enter into the consideration of this subject. It is that wherever the law was to be executed, it is of the first importance that the sentiment of the country should not be shocked by the execution of it, but that it should chime in, as far as possible, with the feelings and even prejudices of the people. It was supposed that this evidence would command the high respect of the people generally, and thereby facilitate the recovery of the fugitive. But even if this bill is defective, I know that gentlemen from the free States—from one portion of the community, from one portion of the country—I mean the Democracy of the Northwest, stand prepared to make it as stringent as any Southern man requires it to be made, so as to insure the purpose intended to be accomplished, and to render it as effective as possible.

Therefore, I think that my honorable friend should be satisfied with the bill as it now stands, until it properly comes up for consideration and amendment. Then any suggestion that will give strength to that bill, so as to enable the slaveholder to recover his property, guaranteed to him by the Constitution of the United States, would be admitted by a large majority of the Senate. I pass by that question. I gave my assent to reporting this bill, believing with my Southern friends, that we were arranging it in such a way as was best calculated to effect the object we had in view. We were desirous, and our Northern friends were willing that we should do everything in our power to render the bill effective and satisfactory. Mr. President, the next subject to which I would call the attention of the Senate, is immediately connected with the subject matter before us; and it is, perhaps, one of the most difficult points to settle which is likely to come under our consideration. It is a point about which there is a great diversity of opinion; it is a point about which gentlemen may reasonably and honestly differ. Sir, I find myself differing from some of my political friends—my personal associates—gentlemen for whose opinions I entertain as high a respect as I can possibly entertain for those of any Senator on this floor. I believe I have said before, and I repeat it now—I believe that under all the circumstances connected with the annexation of Texas to the United States, her claim to the boundary which she has established for herself is rendered so perfect that, without a violation of good faith upon the part of the United States, she cannot be justly deprived of it. Sir, that question has been discussed with an ability much greater than I could bring to bear upon the discussion, if I was disposed to go into its consideration. I will not do so.

I put it upon the ground upon which it appears me to rest, and that is the claim of Texas to the boundary of the Rio Grande, from its sources to its mouth, is rendered perfect by the course of the government of the United States itself, she having undertaken to establish that boundary by negotiation with Mexico, and having acquired the disputed territory by conquest, cannot justly retain it. Well, sir, if that opinion was general, if we could find a majority of the people of our country in favor of it, all difficulty would be out of the way. Texas is satisfied to keep her territory. She only asks that Congress should allow her claim. But we know, we cannot disguise the fact, that there is a great diversity of opinion on this subject. There are many persons, not in the North, not in the West, not in the Northwest, merely, but even in the South, who have great doubt with regard to the claim of Texas being such as she could sustain either in Congress or in the courts if it could go there. In that state of things, what is best to be done? It is a disputed question, and one which I must take for granted can be reasonably disputed. Many persons entertain an opinion as strong, adverse to the claim of Texas, as my own opinion in favor of it. Well, sir, in this condition of things, with this disputed boundary on the part of Texas, does it not behoove us to endeavor to do as substantial justice as possible to that State, and to prevent the difficulties—which, I must honestly say, although with regret, have been augmented and rendered threatening by the action, and what I consider the improper action, of the General Government, to prevent the difficulties growing up in that quarter, and going on increasing every day? Is it not, therefore, better that we should give to Texas a reasonable compensation for the relinquishment of any claims she may have to the territory, or any portion thereof, and settle then the question at once and forever. Now, sir, I know very well that, with many of our Southern friends, this is the great stumbling block in the way of any adjustment of this question. Sir, did I believe that, by purchasing any portion of the territory of Texas, we were to do what gentlemen tell us to be done—namely, that any portion of what I believe to be now a part of the territory of Texas, and therefore slaveholding territory, was to be converted into free territory—I would not consent to it. But I believe the opinion of the ablest constitutional lawyers of the land would sustain

me in the assertion that, as that territory is purchased, and you pay an equivalent to Texas for it, the laws of Texas will remain operative on it, because, by purchasing and paying for the claim, you recognize the right, and thus admit the fact, that this is now a portion of the territory of Texas. Hence the laws of Texas must continue to be in force in the territory ceded, unless they be repealed by some subsequent legislation. I wish to speak plainly upon this subject. If this opinion is correct, then, whatever may be the operation of the Mexican laws in other portions of the territory of the United States acquired from Mexico—a point which I do not propose to consider—whatever may be the operation of those laws elsewhere, it is certain that in this territory purchased from Texas they will have no operation whatever—the slaveholding laws of Texas having been attached. What then, is to prevent—provided the soil, climate, and productions, authorize doing so—what is to prevent the slaveholder from moving into that territory, if he thinks proper to do so? and being protected by the territorial laws, until the people themselves shall determine to form their constitution, when they can prohibit, or continue to tolerate the institution as they see fit.

Is there any difficulty in the way? I will ask any honorable senator who may entertain any doubt upon this subject, to state what the difficulty is, or how any Mexican law, or any other law now existing, can prevent the slaveholders from going into this territory with their slaves, if they choose to do so? Well, Mr. President, Texas has manifested a willingness to settle this question upon a reasonable basis, by relinquishing her claim for a competent compensation, to a portion of her territory. Can it be supposed that the Representatives of Texas would sacrifice the rights of that State by giving up their territory, to be taken from the jurisdiction under which it now is, when they and all others can now go and take their property of whatever description, and, in consideration of a few paltry dollars, consign it to restrictions disadvantageous and offensive to her, as well as to all the Southern States? No, sir, no! Sir, the committee that reported this bill never for a moment supposed that they were laying the slightest temptation in the way of any one calculated to influence their votes, and they did not suppose they were likely to carry a single vote one way or the other, by means of the compensation to be given to Texas for the cession of her claim. Texas prefers to retain her own territory. Give it to her, and she will be content and ask nothing more. But if you think it best to purchase it, Texas consents to sell for the benefit of the whole country, and for the restoration of the peace and harmony of the Union. For these reasons, Mr. President, I believe that this measure would have the effect to settle a difficult, an exceedingly difficult subject, and which, if not settled now, no man can foresee where it will terminate. I was in favor of retaining that provision, in order to settle the boundary of Texas. Sir, I care not whether the western boundary of Texas on the Rio Grande conflicts with the boundary of New Mexico, Chihuahua, or Tamaulipas. It is a matter of no importance whatsoever. We can establish a line certainly in any territory that we possess; and if we think proper to annex any portion of it lying contiguous to a State, it is certainly in our power to do so with the assent of such State, as in the case of Missouri. How did she get that beautful section of country lying upon the Missouri river? It was by an act of Congress annexing it. And so, sir, I say that all arguments founded upon the ground that we are cutting off this portion or that portion of the territory of New Mexico, or that we are breaking up or disregarding old Mexican lines, have no influence whatsoever on my course or opinions. It is for us to decide, under the circumstances of the case, what limit we consider to be right now, and to settle upon that as the line.

One amendment, Mr. President, I shall require, to put an end to all doubt or cavil, and that is, that a clause be inserted by which the right of Texas to divide the territory which may remain to her, into the number of States designated by the compact for her admission into the Union, shall be expressly recognized and admitted. The next portion of the bill, as reported, provides for the establishment of territorial governments for New Mexico and Utah. This portion of the bill was prepared with a view to accord with the principles of non-intervention, as contended for by the South. The boundaries being fixed, Mr. President, it became necessary to determine what kind of a government should be established for those territories, and what restrictions imposed, if any. The bill itself, as reported, contained a phraseology by mistake, which was adopted from the Clayton Compromise bill, but which has been modified so as to correspond with the amended language of that bill, by the amendments of my honorable friend from Georgia, (Mr. Berrien.) The tenth section, which specifies what the legislative powers of these territories shall be, is as follows:

"That the legislative power of said Territories shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil, *nor in respect to African slavery;* no tax shall be imposed upon the property of the United States; nor shall the lands and other property of non-residents be taxed higher than the lands and other property of residents.

All the laws passed by the legislative assembly shall be submitted to the Congress of the United

States, and, if disapproved, shall be null and of no effect."

Now, sir, why was this provision amended? honorable Senators will perceive that the first part of that section gives to the territorial legislature, all rightful legislation under the laws and Constitution of the United States, but the prohibition with regard to African slavery would have prohibited the territorial legislature from protecting property of that discription if found in the territory. But the Senate of the United States made an amendment, striking out that portion which restricted them, and thus leaves the power to pass all municipal regulations necessary for the protection of every discription of property, prohibiting them only from passing any law for the *introduction* of slavery, or the *prohibition* of its introduction. Am I right in this construction? If I am, then what is the objection that my honorable friends make to that provision? Are we protected in our property if we choose to go there? I think that we are protected. I think that the terrritorial legislature would have no power to pass any law which should be destructive of the interests of any species of property, but that they are bound on the other hand by all rightful legislation to protect property of every description. Now, if I am mistaken in this, then I hold it to be the duty of Congress to render it more specific. Do not tell me, Mr. President, that the Mexican laws come in and prevent them from protecting that discription of property, because it is prohibited by Mexican legislation; for I have no doubt as regards the question of the Mexican laws, and if I had any doubts, they have been entirely removed by the able, and I think unanswerable, arguments of the honorable Senator from Louisiana, [Mr. SOULE.] I have no fear of the operation of the Mexican laws—none whatever. If I choose to remove with my property of that description to any of these territories. I should not be deterred by the apprehension that there was any law in existence that could interfere with me or prevent me. Sir, we are told that property is sensitive. Be it so; but our people are intelligent. They can be made easily to understand what are the laws and what are their rights.

If it should be made a question, I have no fear whatever of the result. If I am wrong, let the error be pointed out. I know there are some gentlemen who entertain a different opinion, because their wishes, their desires are that slavery should be prohibited; but I am decidedly of opinion—and I do not wish to take any advantage of any construction put upon the bill differing from what other gentlemen may consider to be correct—that the provisions of the bill give us the protection which we demand. Mr. President, I promised to be as brief as possible; and I come now to the principle object which induced me to say a word to the Senate. I have been more than anxious from the commencement, as I have stated over and over again, to see this unfortunate question settled in such a way as to protect the rights of all the citizens of the United States; to take from none what they are fairly entitled to under the Constitution, and to give to all that participation which they have a right to ask as citizens. From the commencement of this whole matter, to every individual who thought proper to ask my opinion, I have stated, that the boundary of the State of California, as it is called, was an insuperable objection to my mind. It is not necessary to go into any examination of the extent of the country that is taken by a few individuals—I must call them a few individuals—stationed at Monterey and and San Francisco, and a few scattered upon the line—an extent of country which there is not a man in this Senate, I venture to say, would mark out as the boundary of any State, if the map was laid before him, and he had the designation of the boundary himself; not one. If there had been no action upon the part of California, and we had been about to prescribe the limits for a State, and to authorize her to form a constitution and State government, what should we do? Would you not give he reasonable limits? Would you not give her limits similar to those granted to the largest States in the Union? Limits which would enable her to perform the duties that appertain to State governments? Certainly you would. Then why is it that that disposition does not prevail now? Unfortunately Mr. President, the reason is too apparent. It cannot be disguised; and I felt a little, I must confess, some time ago, when my honorable friend from Illinois. [Mr. DOUGLAS] with that ardour, and eloquence, and zeal, that always characterize him, thought proper to intimate that the objection of the South to the admission of California was because she prohibited slavery. Was that just? Was it fair? Did it fairly represent the opinions expressed by honorable Senators from the South? Not so; certainly not. We were prepared from the begining. I believe I may say—and I speak of most of the Southern men, and probably of all—to waive the many objections from irregularity and informalities—objections that, under other circumstances, would be almost insuperable.

But in order to get clear of this unfortunate question if practicable, without sacrificing everything on our part, we were prepared to admit California, with proper limits, waiving all objections. I know that the question will arise, whether, if her limits are restricted, you can admit her instantaneously. That is a question of considerable doubt. I have entertained the opinion that such admission might take place, though I must confess that the precedents are against me, as in the case of Iowa, and Michigan and Arkansas. Mr. President, what I desire—and my amendment shows my desire, is to give to California a boundary, natural in itself, very

extensive: giving her all the facilities that a State ought to have, and, in truth, preventing what may take place hereafter, if the whole country is thrown into one empire; preventing what gentlemen seem very anxious to prevent, the setting up of these people for themselves. When you give them such an extended territory of 1,000 miles upon the Pacific, you take a step that more endangers the loss of that portion of the country than any other you could possibly take. It is an empire of itself. It takes all the front. It leaves all the rear dependent upon them, to unite with them and make common cause. Whatever that front, commanding as it must the most valuable trade of the world, determine upon, the whole interior must acquiesce in. If you divide that front, you divide the interest. You make your possessions much more secure, and you benefit the people themselves; for they can discharge their duties better as citizens with two governments, than if obliged to travel 600 or 700 miles in order to get to the seat of government, passing almost impassable barriers, the mountain range. I would ask honorable Senators, over and again, to say to me.

I speak of those in favor of admitting California with her present extent of limits—to say to me and to the country, as independent, as frank, as honorable men, and as senators of the United States, whether they would vote for that territory, as extensive as it is marked down here, to be a State, if slavery was not prohibited. Will any man answer me that? I do not believe there is a man in the Senate that would vote for it. Then, is it not asking too much of the Southern States, who are disposed to yield all that they can, I honestly believe, consistent with honor and essential rights, to settle this question? Why, I ask, will you not give us ground to stand upon? We shall be asked, perhaps—why insist upon a division? for this whole country is not fitted for slave labor, and you will have two free States instead of one. That is not the question. Be it so. If the country is not fitted for slave labor, if owners of slaves do not go there, if those in favor of a free State settle the country, after giving them a territorial government, in sufficient numbers to justify its coming into the Union, we of the South have no objection. Let it be free. Can anything be fairer? If there is anything unfair, unjust, illiberal in the proposition I make, I wish it to be pointed out; and I assure senators I will modify or change it, or give it up, provided it shall be made to appear wholly wrong, in order to place the whole matter upon just and liberal terms. God knows I do not wish to see the contest continued. God knows that it is my desire to see it brought to a pacific termination. Whether it will be so or not depends upon the action of Congress. I tell senators I speak what I know. Whether it is to be peacefully adjusted depends upon the action of this body and that of the House of Representatives.

Let them determine to withhold from the South all participation in any portion of the exsive territory included within the proposed limits of California. To admit it as a State with such unreasonable and inconvenient limits, merely because the people there have been induced by a government agent to apply what is tantamount to the Wilmot Proviso; let them determine on that, and God knows when the peace of this country will be established, and controversy and agitation terminate. My proposition, Mr. President, is to take as the northern boundary of the State of California, the 42nd parallel of latitude, which is the southern boundary of Oregon; to follow that parallel until you reach the summit of Sierra Nevada; pass along the crest of that until you come to latitude 35 degrees, 30 minutes. I fixed upon the latitude 35 degrees, 30 minutes, because it is a mountain range, which leaves the lake, Tullans, which is in some measure the head waters of the San Joaquin. It is to throw all the waters that run west of the mountains of Sierra Neveda into the territory of California, which I propose to form into a State. It is not only necessary for senators to look at the map, to see that it is a natural boundary. It is one that, if they had been going themselves to arrange the matter, looking upon the whole territory, and no action having been previously had, they would in all human probability have fixed upon. The territory I propose to include in the limits of the State, is upwards of ninety thousand square miles; so that in truth it will be the largest State in the Union. It is more than twice the size of the State of New York, as my honorable friend near me, (Mr. Douglas) remarks. If you look upon the coast, it has the distance of upwards of six hundred miles—between six and seven hundred miles. Mr. President, I have offered this proposition with the most sincere and ardent desire that it will meet with favor on the part of the Senate of the United States, and ultimately upon the part of the House of Representatives. I have done it, as I have stated before, differing with my own friends as regards other parts of the bill. I am prepared to risk my own standing and position in that section from which I come, in order to try and settle the question. Defeat this amendment, and I shall be compelled by the strongest obligations that I owe to myself, to my own section, and I believe the whole country, to go against the bill.

I know, sir, the objection in the minds of many individuals to fixing this boundary for California results from their unwillingness to send back the senators and representatives now elected from what is called the State of California. Well, sir, if that be the opinion of the two houses of Congress, that the curtailing of the limits produces that necessity, then I appeal to

senators whether they can jeopard the pacification of a measure so important to the peace and harmony of the country, not to say of the Union itself, simply because four individuals will be prevented from taking their seats in one or the other branch of Congres during a few weeks. For myself—and I say it in perfect sincerity and truth—I would just as soon have these gentlemen elected from California, as senators and representatives, as any others. With the senators I have a personal acquaintance; but not so with the representatives. So far as I have a knowledge—and I speak with sincerity—there are no men from California whom I would rather see occupy the station than the two gentlemen who were elected. There is no feeling, therefore, upon my part—no desire whatever to exclude them. If they can be admitted with the understanding that you can limit their boundaries, and also include their admission—if that can be the case, sir, I acquiesce in it. If, however, it is otherwise, I put it to senators to say whether they will jeopard this measure and brave all the consequences that will result from it. Gentlemen may wink as hard as they please, but they cannot shut their eyes to the difficulties by which they are surrounded. If it cannot be done, and gentlemen are determined to persevere, I shall have done my duty to the Senate, and, as I believe, to the whole country. I much fear, with the very best intentions in the world on the part of many Senators, and a heartfelt desire upon their part to do what I wish them to do, yet that, such is the force of circumstances, my amendment will be defeated. If it is, sir, I can only say that on others' heads, and not on mine and those who are acting with me, will rest the consequences. We shall have done all that we can do to quiet the public mind, to do justice to all sections, in order to stop the agitation of those unfortunate questions which are blinding men to consequences, arousing angry passions, and threatening the most deplorable results.

I was going to remark, Mr. President, that when this amendment shall be disposed of, I should propose to strike out the second section of the bill, in these words:

"That until the representation in Congress shall be apportioned according to actual enumeration of the inhabitants of the United States, the State of California shall be entitled to two representatives in Congress."

I will say why I propose to strike out this section. There are gentlemen in the Senate, I know, who entertain constitutional difficulties with regard to fixing the representation. I have great difficulty myself on that very point. I did believe that the Constitution of the United States gave but one represesentative to a State until an actual enumeration was made, and it was ascertained by that enumeration that they were entitled to more. According to the ratio of representation now, I have my doubts whether that is strictly correct, although the able argument of my friend from Georgia [Mr. BERRIEN] has never been fully answered. Be that as it may, in order to relieve gentlemen from all difficulty upon the subject, I shall propose to strike it out, in order that the two Houses may settle that matter for California, if she is to be admitted, they judging of the qualifications of their respective representatives. It is therefore unnecessary to say that they shall have a certain number.

I beg pardon, sir, for having detained the Senate much longer than I intended. I have felt so desirous of being placed in a position in which I could suppport a measure which professes and which ought to be one of pacification and compromise—yielding something on all sides, in order to bring about an adjustment—that I have perhaps consumed more time than I ought in endeavoring to enforce upon gentlemen the necessity of yielding in this case, and forming a proper limit to the boundaries of California. It will be with Senators to act according to their consciences in relation to this amendment; but, whatever course they may take, I can only say I have discharged my duty.

SPEECH

OF THE

HONORABLE DANIEL WEBSTER,

ON

THE COMPROMISE BILL,

DELIVERED IN THE SENATE OF THE UNITED STATES, ON THE 17TH DAY OF JULY, 1850.

Mr. President: It was my purpose, on Tuesday of last week, to have followed the honorable member from South Carolina, (Mr. BUTLER,) who was addressing the Senate on the morning of that day, with what I then had, and now have, to say upon the subject of this bill. But before the honorable member had concluded his own remarks, it was announced to us, that the late Chief Magistrate of the United States was dangerously ill, and the Senate was moved to adjourn. The Senate adjourned; and the solemn event of the decease of the President took place that evening.

Sir, various and most interesting reflections present themselves to the minds of men, growing out of that occurrence. The Chief Magistrate of a great Republic died suddenly. Recently elected to that high office by the spontaneous voice of his fellow countrymen, possessing in a high degree their confidence and regard, ere yet he had had a fair opportunity to develope the principles of his civil administration, he fell by the stroke of death. Yet, sir, mixed with the sad thoughts which this event suggests, and the melancholy feeling which spread over the whole country, the real lovers and admirers of our constitutional government, in the midst of their grief and affliction for this loss, find something consoling and gratifying. The Executive head of a great nation had fallen suddenly: no disturbance arose; no shock was felt in a great and free Republic. Credit, public and private, was in no way disturbed, and danger to the community or individuals was no where felt. The legislative authority was neither dissolved nor prorogued; nor was there any further interruption or delay in the exercise of the ordinary functions of every branch of the Government, than such as was necessary for the indulgence, the proper indulgence, of the grief which afflicted Congress and the country. Sir, for his country General Taylor did not live long enough; but there were circumstances in his death so favorable for his own fame and character, so gratifying to all to whom he was most dear, that he may be said to have died fortunately.

"That life is long which answers life's great end."

A gallant soldier, able and experienced in his profession, he had achieved all that was to be expected by him in that line of duty. Placed at the head of the Government, as I have said, by the free voice of the people, he died in the midst of domestic affections and domestic happiness. He died in the full possession of the gratitude of his country. He died in the consciousness of duty performed. He died here, in the midst of the counsels of his country; which country, through us, its organs, has bestowed upon him those simple, but grand, and imposing rites, such as the Republic confers on the most distinguished of her sons. He has run the race destined for him by Providence, and he sleeps with the blessings of his countrymen.

"Such honors Ilium to her Hero paid,
And peaceful slept the mighty Hector's shade."

Mr. President, I proceed now to say upon the subject before us what it was my purpose then to have said. I begin by remarking, that the longer we stay in the midst of this agitating subject, the longer the final disposition of it is put off or postponed, the greater is the intensity of that anxiety which possesses my

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breast. I wish, sir, to harmonize, so far as I can, opinions. I wish to facilitate some measure of conciliation. I wish to consummate some proposition or other, that shall bring opposing sentiments together, and give the country repose. It is not my purpose, to-day, to compare or contrast measures or plans which have been proposed. A measure was suggested by the President (Mr. Polk) in his message of 1848. The same measure, substantially, was again repeated by the late President (Mr. Taylor) in his message of 1849. Then there is before us this proposition of the Committee of Thirteen. I do not regard these as opposite, conflicting, or, to use the language of the day, as antagonistical propositions at all. To a certain extent, they all agree. Beyond what was proposed either by Mr. Polk or by the late President, this report of the committee, and the bill now before us, go another step. Their suggestions were, and especially that of the late President, to admit California, and for the present to stop there. The bill before the Senate proposes to admit California, but also to make a proper provision, if the Senate deem the provision proper, for the Territories of New Mexico and Utah. I confess, sir, my judgment, from the first, has been that it was indispensable that Congress should make some provision for these Territories; but I have been careless whether the things, necessary to be done, should be done in one bill or in separate bills, except that, as a matter of expediency, it was and has been my opinion, from the beginning, that it would have been better to have proceeded, measure by measure. That was a matter of judgment upon the expediency of the course. I was one of the Committee of Thirteen. Circumstances called me to my home during its deliberations; and it seemed to be the general opinion of the committee at that time, and I thought the better opinion, to begin with Californie, and then take up the other measures in their order. Upon further consideration, the committee—very fairly I doubt not, and in the exercise of their best jndgment and discretion—thought fit to unite the three things which are in this bill. Well, sir, whether singly or together, each and every one of these objects meets my approbation, and all are in my judgment desirable. In the first place, I think it is a desirable object to admit California. I do not conceal from myself, nor do I wish to conceal from others, that California is before us with some degree of irregularity stamped upon her proceedings. She has not been through the previous process of territorial existence. She has formed her constitution without our consent. But I look upon it, sir, that California, from the extraordinary circumstances which have attended her birth and progress to the present moment, entitles herself, from the necessity of the case, to an exception from the ordinary rules. Who expected to see such a great community springing up in such an incredibly short time? Who expected to see 100,000 or 150,000 people engaged in such an employment, with so much activity, and enterprise, and commerce, drawing to themselves the admiration and regard of the whole world, in the period of a few months? Well, sir, she comes to us with a constitution framed upon republican models, and conformable to the Constitution of the United States; and under these circumstances, still admitting her application as premature and irregular, I am for admitting her, as there has been nothing done which her admission on our part will not cure. She will be lawfully in the Union, if we admit her, and therefore I have no hesitation upon that point.

Then, with respect to the Territories: I have been and I am of opinion that we should not separate at the end of this session of Congress without having made a suitable provision for their government. I do not think it safe to allow things to stand as they are. It has been thought that there may be such a thing as admitting California, and stopping there. Well, it is not impossible, in the nature of things, that such a course of policy should be adopted, if it would meet the proper concurrence. But then I have always supposed, sir, that if we were now acting upon California as a separate measure, and should, in the prosecution of that measure, admit her into the Union, the inquiry would immediately arise,

What then, or what next? I have never supposed that the questions respecting the Territories would thereby be put to rest, even for the present. I have supposed, on the contrary, that the very next thing to be done would be, to take up the subject of the necessity of a government for the Territories, and prosecute that subject until it should be in some manner terminated by Congress, to the exclusion of all ordinary subjects of legislation. I am not authorized to say, sir, I do not know, the opinion of the honorable members of the Committee on Territories: here sits near me the honorable member from Illinois, who is at the head of that committee, and I take it for granted that he can say whether I am right or not, that if we should this day admit California alone, he would to-morrow feel it his duty to bring in a bill for the government of the Territories, or to make some disposition of them.

Mr. DOUGLAS, (in a low voice.) Does the Senator wish an answer?

Mr. WEBSTER. I should like to know the honorable member's purpose.

Mr. DOUGLAS. Mr. President, if California should be admitted by herself, I should certainly feel it my duty, as the chairman of the Committee on Territories, to move to take up the subject of the Territories at once, and put them through, and also the Texas boundary question, and to settle them by detail, if they are not settled in the aggregate, together. I can say such is the opinion and determination of a majority of that committee.

Mr. WEBSTER resumed. Then, sir, it is as I supposed. We should not get rid of the subject, even for the present, by admitting California alone. Now, sir, it is not wise to conceal from ourselves our condition. Suppose we admit California alone. My honorable friend from Illinois brings in, then, a bill for a territorial government for New Mexico and Utah. We must open our eyes to the state of opinion in the two Houses respectively, and endeavor to foresee what would be the probable fate of such a bill. If it be a bill containing a prohibition of slavery, we know it could not pass this House. If it be a bill without such prohibition, we know what difficulty it would encounter elsewhere. So that we very little relieve ourselves from the embarrassing circumstances of the condition in which we are placed, by taking up California and acting upon it, alone. I am therefore, sir, decidedly in favor of passing the bill in the form in which it is upon your table.

But, sir, if it be the pleasure of the Senate to approve the motion which it is proposed to make to the Senate, shortly, for laying this whole measure upon the table, and thereby disposing of this bill, I can only, for one, say that if this measure be defeated by that proceeding, or any other, I hold myself not only inclined, but bound, to consider any other measures which may be suggested; because the case is pressing, and the circumstances of the country are urgent. When in the world have we had any foreign question, if I may say so, any exterior question, that has occupied the consideration of Congress for seven months, and yet been brought to no result? When have we had a subject before us that has paralyzed all the operations of Government, that has displaced the regular proceedings of the two Houses of Congress, and has left us at the end of seven months of a session, without the ordinary annual appropriation bills? When have we ever had before, in the history of this Government, such an occurrence as that? What is now proposed, is, to make a territorial government for New Mexico and Utah, without restriction. I feel authorized to assume, from the circumstances before us, that it is in the power of gentlemen of the South to decide whether this territorial government without restriction, as provided in this bill, shall be established or not. I have voted against restriction for the reasons which I have already given to the Senate, and may repeat; but it now lies with Southern gentlemen to say whether this bill, thus providing for territorial governments without restriction, shall pass or not; and they will decide that question, doubtless, by reference to what is likely to happen, if it should not pass. Now, sir, I am prepared to say that if this measure does not pass, I am

ready to support other proper measures that can pass, and will pass. I shall never consent to end this session of Congress until some provision be made for New Mexico. Utah is less important. Let her repose herself upon the borders of the Salt Lake another year, if necessary. But as to New Mexico, situated as she is, with a controversy on hand, as she has, with her more powerful neighbor, Texas, I shall never consent to the adjournment of Congress without a provision made for avoiding a collision, and for the settlement of the point in controversy between that Territory and that State. I have the strongest objection to a premature creation of States. I stated that objection at large in the Senate, some two years ago. The bringing in of small States with a representation in the Senate equal to the representation of the largest States in the Union, and with a very small number of people, deranges and disturbs the proper balance between the Senate and the House of Representatives in Congress. It makes the Senate a kind of oligarchy. There may be six, or eight, or ten small States in the southwest, having as many Senators in Congress as they have Representatives. This objection is founded upon the incongruity which such a case produces in the constitutional relation of the Senate and the House. It disfigures the symmetry of the Government; and in this respect it does not make the slighest possible difference, in my estimation, whether they are to be free States or slave States. I am not disposed to make a Territory, that is immature and not fit to come into the Union, on account of want of population, a State, merely because it will be a free State. That does not weigh with me a hair. But my objection has been and is, as I have stated or attempted to state, that the admission of such States, with such small amounts of population, deranges the system. It makes the Senate what it was never intended by the Constitution to be. Nevertheless, sir, as I favor the admission of California, although she presents herself before us with some irregularity in her course of proceedings, so there are greater evils, in my judgment, than the admission of New Mexico as a State, now, at once, or the provision that she shall be admitted in a certain time hereafter. I do not think that so great an evil as it would be to leave New Mexico without a government, without protection, on the very eve of probable hostility with Texas, so far as I can discern; for, to my mind, there is the highest degree of probability that there will arise collisions, contests, and, for aught I know, bloodshed, if the boundaries of New Mexico shall not be settled by Congress.

Sir, I know no question so important, connected with all these matters, as this settlement of the Texan boundary. That immediately and intimately, in my judgment, touches the question of the duration of peace and quiet in the country; and I cannot conceive how gentlemen, looking upon that subject in all its aspects, can content themselves with the idea of retiring from their seats here, and leaving it where it is. I should be derelict to my duty if I did not persist, to the last, in bringing it to a decision by the authority of Congress. If a motion be made, as it has been announced to be intended to be made, to lay this bill upon the table, and that motion prevails, this measure is at an end. Then there must be a resort to some other measures; and I am disposed to say that, in case of the failure of this bill, I shall be in favor of a bill which shall provide for three things, viz: The admission of California with its present constitution and boundaries, the settlement of the Texan boundary, and the admission of New Mexico as a State. Such a measure will produce a final termination of the controversies which now agitate us, and relieve the country from distraction.

Sir, this measure is opposed by the North, or some of the North, and by the South, or some of the South; and it has the remarkable misfortune to encounter resistance by persons the most precisely opposed to each other in every matter connected with the subject under consideration. There are those—I do not speak, of course, of members of Congress, and I do not desire to be understood as

making any allusion whatever, in what I may say, to members of this House or of the other—there are those in the country who say, on the part of the South, that the South by this bill gives up everything to the North, and we will fight it to the last; and there are those, on the part of the North, who say that this bill gives up everything to the South, and we will fight it to the last. And really, sir, strange as it may seem, this disposition to make battle upon the bill, by people who never agreed in anything before under the light of Heaven, has created a sort of fellowship and good feeling between them. One says, Give me your hand, my good fellow; you mean to go against this bill to the death, because it gives up the rights of the South; I mean to go against the bill to the death, because it gives up the rights of the North; let us shake hands and cry out, "Down with the bill;" and then unitedly raise the shout, "A day, an hour, of virtuous liberty is worth a whole eternity in bondage!" Such is the consistency of the opposition to this measure.

Now, sir, I ascribe nothing but the best and purest motives to any of the gentlemen, on either side of this chamber, or of the other House, who take that view of this subject which differs from my own. I cannot but regret, certainly, that gentlemen who sit around me, and especially my honorable colleague, and my friends from Massachusetts in the other House, are obliged, by their sense of duty, to oppose a measure which I feel bound by my conscience to support to the utmost of my ability. They are just as high minded, as patriotic, as pure, and every way as well-intentioned as I am; and, sir, if it was put to a vote, and the thing were to be decided by a majority, I must confess my friends from Massachusetts could outvote me. But still my own opinions are not changed, not in the least degree changed. I feel that every interest of the State, one of whose representatives I am, as well as every great interest of the whole country, requires that this measure, or some equivalent measure, as healing, composing, and conciliatory as this, should be adopted by Congress before its adjournment. That is my object, and I shall steadily pursue it.

Let us examine this. If I may analyze the matter a little both in regard to the North and the South, Massachusetts, being a northern State, may be taken as an example, or a sample, of northern interests. What does she gain by this bill? What does she lose by it? If this bill passes, Massachusetts and the North gain the admission of California as a free State, with her present constitution, a very intensely desirable object, as I believe, to all the North. She gains that. She gains, also, the quieting of the New Mexican question and the Texas boundary, which, in my judgment, as I have already said, is the most important of all these questions, because it is the most immediately menacing evil consequences, if such consequences be not arrested by this or some similar measure. She gains the quiet of New Mexico, and she gains the settlement of the Texas boundary—objects all desirable and most important. More than that, sir, she gains, and the whole North gains, and the whole country gains, the final adjustment of by far the greatest part of all the slavery questions. When I speak of this bill in that connexion, I mean also to connect it with the other subjects recommended by the committee; and I say that if the whole report of that committee could be carried out, one of the greatest of all possible benefits will be secured; that is, the settlement, to an extent of far more than a majority of them all, of the questions connected with slavery which have so long agitated the country. And then, sir, Massachusetts, and the North, and the whole country, gain the restoration of this Government to the ordinary exercise of its functions. The North and the South will see Congress replaced in its position of an active, beneficial, parental legislation for the whole country. Consider, sir, what has happened? While it is of the utmost importance that this restoration to the exercise of its ordinary functions by Congress should be accomplished, here we are, seven or eight months from the beginning of the session, hardly able to keep the Government alive. All is

paralysis. We are nearly brought to a stand. We are all suspended upon this one topic, this one idea, as if there were no object in government, no uses in government, no duties of those who administer government, but to settle one question.

Well, sir, the next inquiry is, What do Massachusetts and the North, the anti-slavery States, lose by this adjustment? What is it they lose? I put that question to every gentleman here, and to every man in the country. They lose the application of what is called the Wilmot Proviso to these Territories, and that is all. There is nothing else that I suppose the whole North are not willing to do, or willing to have done. They wish to get California into the Union and quiet New Mexico; they wish to terminate the dispute about the Texan boundary, cost what it reasonably may. They make no sacrifice in all these. What they sacrifice is this: The application of the Wilmot Proviso to the Territories of New Mexico and Utah, and that is all. Now, what is the value of that loss, or that sacrifice, in any reasonable man's estimate? The value of it, sir, depends upon its necessity. If, in any reasonable man's judgment, the necessity of the application of that Proviso to New Mexico is apparent, why, then, there is value in it to those who hold that the further extension of slavery is to be resisted, as a matter of principle. But if it be not necessary, if circumstances do not call for it, why, then, there is nothing in the Wilmot Proviso, and no sacrifice made in refusing, or declining to apply it. That is the question.

Now, sir, allow me to say, that the Wilmot Proviso is no matter of principle; it is a means to an end; and it cannot be raised to the dignity of a principle. The principle of the North I take to be, that there shall be no further extension of slave territory. Let that be admitted; what then? It does not necessarily follow that in every case you must come down with a Wilmot. If there are other circumstances that are imperative and conclusive, and such as influence and control the judgment of reasonable men, rendering it unnecessary, for the establishment of that principle, to apply a measure which is obnoxious and disagreeable to others, and, regarded by them as derogatory to their equality as members of the Union, then, I say, it is neither high, nor patriotic, nor just to apply it.

My honorable colleague admitted the other day, with great propriety and frankness, that if it could be made certain, or if it were certain, that natural causes necessarily exclude slavery from New Mexico, then the restriction ought not to be inserted in the bill. Now, by certainty, I suppose my colleague meant not mathematical certainty; I suppose he meant that high probability, that moral certainty, which governs men in all the concerns of life. Our duties to society, our objects in society, are all measured by that high probability, which is something short of mathematical certainty, but which we are bound to act upon in every transaction of daily life, either in a public or in a private capacity. Now, the question, therefore—I address myself to gentlemen of the North—is this: Is the probability of the exclusion of slavery from New Mexico by natural causes so high, and strong, and conclusive, as that we should act upon it as we act on the same degree of probability, applied to other questions, in civil, moral, and social relations? I shall not recur to what I have said, myself, heretofore, on this subject; for I suppose my friend from Pennsylvania, (Mr. Cooper,) and my friend from Connecticut, (Mr. Smith,) who discussed this matter latterly, have left it proved, and as much demonstrated as any problem of a moral and political character can be demonstrated, that it is true, that New Mexico is not a country in which slavery exists, or into which it ever can be introduced. If that were not so upon previous evidence, and if now anything further need be added, we have before us, to-day, an authentic expression of the will of the inhabitants of that country themselves, who, it is agreed on all hands, have the ultimate right of decision on a subject that concerns themselves alone, and that expression is altogether against slavery.

What is it, then, that is yielded by the North but a mere abstraction, a naked

possibility, upon which no man would act? No man would venture a farthing now for a great inheritance to be bestowed on him when slavery should be established in New Mexico. Now that there is an authentic declaration upon the subject by the people of New Mexico themselves, what is there that should lead us to hesitate in settling this matter? Why should we proceed upon the ground of an abstract notion of adhering to the Wilmot Proviso? And I must be permitted to say that, as applied to this case, it is all an abstraction. I do not mean to say that the injunction against slavery in the ordinance of 1787 was a mere abstraction; on the contrary, it had its uses; but I say the application of that rule to this case is a mere abstraction, and nothing else. It does not affect the state of things in the slightest degree, present or future. Every thing is to be now, and remain hereafter, with or without that restriction, just as it would the other way. It is, therefore, in my judgment, clearly an abstraction.

I am sorry, sir, very sorry, that my friend from Connecticut, (Mr. SMITH,) who has studied this case a great deal more than I have, studied it while he was a member of the other House, and has demonstrated, beyond the power of any conscientious man's denial, that there can be no slavery in the Territory about which we are speaking, that the South is mistaken in supposing that it was possible to derive any benefit from it, and that the North is mistaken in supposing that that which they desire to prohibit will ever need any prohibition there, I am sorry to see that my very able friend, having demonstrated the case, did not carry out his own demonstration. The expression of his purpose to vote against this bill followed one of the clearest and strongest demonstrations in its favor, that I have heard from the mouth of man. What is the reason of his opposition? Why, the gentleman said he was instructed by his legislature to oppose it; and, on the whole, he did not feel it to be his duty to depart from those instructions.

It has become, sir, an object of considerable importance in the history of this Government to inquire how far instructions, given *ex parte* and under one state of circumstances, are to govern those who are to act under another state of circumstances, and not upon an *ex parte* hearing, but upon a hearing of the whole matter. The proposition, that a member of this Government, in giving a vote to bind all the country, is to take as his instructions the will of a small part of the country, whether in his own State or out of it, is a proposition that is above or below all argument. Where men are sworn to act conscientiously for the good of the whole, according to their own best judgments and opinions, if the proposition is asserted that they are, nevertheless, bound to take the individual opinion of a few, and be exclusively bound by that opinion, there is no room for argument; every man's moral perception, without argument, decides on such a proposition. I know, sir, that in a popular Government like ours, instructions of this sort will be given, and pledges required. It is in the nature of the case; political men in this country love the people; they love popular applause and promotion, and they are willing to make promises; and, as in other sorts of love, so in this, when the blood burns, the soul prodigally gives the tongue vows. It is the case, especially in some States, in which, in electioneering contests, instructions become little constitutions, which men vow to support. These instructions are often given under circumstances very remote from those that exist when the duty comes to be performed; and, I am sorry to say, they are often given on collateral considerations. I will not say when or where, how remotely, or how lately; but I am very much inclined to think that we should find in the history of the country, cases in which instruction are ready to be given, or ready to be withheld, as the support of some little fragment of some sectional party may be, or may not be, obtained thereby.

Sir, it is curious enough to observe how this idea, that a member chosen into a public body to act for the whole country, is bound, nevertheless, by the instructions of those who elected him, which has risen to a sort of rule, in some of the Ameri-

can States, is differently received and treated elsewhere. According to our notions and habits of thinking, it is not only allowable, but incumbent upon a member of Congress, in the opinion of many, to follow the instructions given by his own particular constituents, although his vote affects the interest, the honor, the glory, the renown of twenty millions of people. As an instance, sir, of the various views taken of this subject, as a question of morals, I may refer to what happened in the Chamber of Deputies of France some years ago, perhaps while the honorable member from Michigan was residing in Paris, but more probably shortly after his return. A gentleman, who was a candidate for the Chamber of Deputies in France, promised his constituents that on a certain measure, expected to come before the chamber, he would vote as they required. They required him to vote so and so, and he said he would do it. Well, sir, he was chosen; and when he came to the Chamber to take the oath of office, he was told: Not so fast! Objection was made. The Chamber said he did not come there as a fair man; he did not come as an impartial man, to judge of the interests of the whole country upon the great questions that were to come before the Chamber. He was pledged and trammelled; he had given up his conscience and promised his vote, and therefore did not stand on an equality with other members of that assembly who came unpledged and untrammelled, and bound to exercise their own best judgments. In short, they rejected him; and whoever wishes to see the most beautiful disquisition upon political morals, and the duty of those who represent the people, that I know of since the time of Mr. Burke's speech at Bristol, can be gratified by reading Monsieur Guizot's speech on that occasion. The member came under pledges made to a few to give his vote for them, although it might be against the many, and they held him not to be a worthy representative of France, fit to act on the questions which concerned the interests of the whole kingdom. For my part, sir, I know how easily we glide into this habit of following instructions. Although I know, too, that members of Congress wish to act conscientiously always, and I believe they wish themselves free from these trammels. But the truth is, that under the doctrine of instructions Congress is not free. To the extent to which this doctrine may at any time prevail in it, the two Houses are not deliberative bodies. Congress needs a "Wilmot Proviso," much more than the snow-capped mountains of New Mexico, or the salt plains of Utah. If the genius of American liberty, or some angel from a higher sphere, could fly over the land with a scroll bearing words, and with power to give effect to those words, and those words should be: "Be it ordained that neither in the Senate nor in the House of Representatives in Congress assembled, shall there be slavery or involuntary servitude, except for crime," it would be a glorious crowning honor and felicity, to the Constitution of the United States. O! thou spirit of Nathan Dane! How couldst thou take so much pains to set men's limbs and motions free in the Territories, and never deign to add even a proviso, in favor of the freedom of opinion and conscience in the halls of Congress!

Sir, I am of opinion that every public consideration connected with the interests of the State, one of whose representatives, and the most humble of them all, I am, shows the absolute necessity of settling this question at once, upon fair and reasonable terms; the necessity of judging subjects according to their real merit and importance, and acting accordingly; and that we should not be carried away by fancies of gorgons, hydras, and chimeras dire, to the utter disregard of all that is substantially valuable, important, and essential in the administration of the Government. Massachusetts, one of the smallest of the States of the Union, circumscribed within the limits of 8,000 square miles, of barren, rocky, and sterile territory, possesses within its limits at this moment a million of people. With the same ratio of population, New York would contain nearly 6,000,000 people, and Virginia more than 7,000,000. What are the occupations and pursuits of such a population on so small a territory? A very small portion

of them live by the tillage of the land. They are engaged exactly in those pursuit which fall under the control, protection, and regulation of the laws of this Government. These pursuits are, commerce, navigation, the fisheries, and manufactures; every one of which is under the influence of the operation of acts of Congress every day. On none of these subjects does Congress ever pass a law that does not materially affect the happiness, industry, and prosperity of Massachusetts; yes, and of Rhode Island too, [looking at the Rhode Island Senators.] Is it not, then, of great importance to all these interests that the Government should be carried on regularly? that it should have the power of action, of motion, and legislation? Is it not the greatest calamity, that it should be all paralyzed, hung up, dependent upon one idea, as if there was no object in government, no use in government, no desirable protection from government, and no desirable legislation by government, except what relates to the single topic of slavery?

I cannot conceive that these great interests would be readily surrendered by the business men of the country, the laboring community of the Northern States, to abstractions, to naked possibilities, to idle fears, that evils may ensue if a particular abstract measure be not passed. Men must live; to live, they must work. And how is this to be done, if in this way all business of society is stopped, and every thing is placed in a state of stagnation, and no man knows when to expect the hour of his redemption to draw nigh? Depend upon it, the people of the North wish to see an end put to this state of things; they desire to see a measure of conciliation pass, and harmony restored; and to be, again, in the enjoyment of a good government, under the protection and action of good laws, and that their interrupted labors may be profitably resumed; that their daily employment may return; that their daily means of subsistence and education for themselves and their families may be provided. There has not been, in my acquaintance with the people of this country, a moment in which so much alarm has been experienced, so much sinking of the heart felt, at the state of public affairs, in a time of peace, as now. I leave it to others to judge for themselves, who may better know public opinion; but, for my part, I believe it is the conviction of five-sixths of the whole North, that questions such as have occupied us here should not be allowed any longer to embarrass the Government, and defeat the just hopes of those who support the Government and expect to live under its protection and care.

I have alluded to the argument of my friend from Connecticut, because it is the ablest argument on this subject that I have heard; and I have alluded to his intimated vote as illustrating what I consider the evil of instructing men, before a case arises, as to what shall be their conduct upon that case. The honorable member from Connecticut is as independent as any other man, and of course will not understand me to mean anything personal in what I have said. I take his case merely as an illustration of the folly and absurdity of instructions. Why should a man of his strength of intellect, and while acting for the whole country, be controlled in his judgment by instructions given by others, with little knowledge of the circumstances, and no view of the whole case?

I have now, Mr. President, said what I think the North may gain, and what it may lose. Now let us inquire how it is with the South. In the first place, I think that the South, if all these measures pass, will gain an acceptable and satisfactory mode for the reclamation of fugitive slaves. As to the territorial acquisitions, I am bound in candor to say, taking Maryland as an example, for instance, that Maryland will gain just what Massachusetts loses, and that is nothing at all; because I have not the slightest idea that, by anything that we can do here, any provision could be made by which the territory of New Mexico and Utah could become susceptible of slave labor, and so useful to the South. Now, let me say, Mr. President, with great respect and kindness, that I wish Southern gentlemen should consider this matter

calmly and deliberately. There are none in this chamber, certainly, who desire the dissolution of this Union, nor in the other House of Congress. But all the world out of doors is not as wise and patriotic as all the world within these walls; and I am quite aware that there are those who raise the loudest clamor against the Wilmot Proviso, and other restrictions upon slavery, that would be exceedingly gratified, nevertheless, to have that restriction imposed. I believe there are those stretched all along from here to the Gulf of Mexico who would say, "Let them put on further restrictions; let them push the South a little further, and then we shall know what we have to do." But, again, the Southern States gain what they think important and gratifying; that is, an exemption from a derogatory inequality. They find themselves placed where they wish to be placed, and, as far as the Territories are concerned, relieved from what they consider the Wilmot yoke. This appeases a feeling of wounded pride; and they gain, too, the general restoration of peace and harmony in the progress of the Government, in the beneficial operation of which they have a full share. One of the evils attendant upon this question, is the harsh judgment passed by one portion of the Union upon another, founded not on the conduct of the North or South generally, but on the conduct of particular persons or associations in each part respectively. Unjust charges are made by one against the other, and these are retaliated by those who are the objects of them. Accusations made by individuals in the North are charged by the South upon the whole North indiscriminately. On the other hand, extravagant individuals at the South utter objectionable sentiments; and these are bruited all over the North as Southern sentiments, and therefore the South is denounced. In the same way, sentiments springing from the abolitionists of the North, which no man of character and sense approves, are spread in the South; and the whole North is there charged as abolitionists, or being tinctured with abolitionism. Now, one side is just as fair and as true as the other. It is a prejudice, of which both sides must rid themselves, if they ever mean to come together as brethren, enjoying one renown, one destiny, and expecting one and the same glory hereafter. If we mean to live together, common prudence should teach us to treat each other with respect.

The Nashville address has been alluded to, and it has been charged upon the whole South, as a syllabus of Southern sentiments. Now, I do not believe a word of this. Far be it from me to impute to the South, generally, the sentiments of of the Nashville Convention. That address is a studied disunion argument. It proceeds upon the ground that there must be a separation of the States, first, because the North acts so injuriously to the South that the South must secede; and, secondly, even if it were not so, and a better sense of duty should return to the North, still such is the diversity of interest, that they cannot be kept together.

Mr. BARNWELL, (interposing.) Will the honorable Senator refer to that portion of the address which contains the sentiment which he declares contains the desire for disunion in any event whatever; for that I understand is the charge against the address?

Mr. WEBSTER. What I understand about this address is this: I say the argument of the address is, that the States cannot be kept together; because, first, the general disposition of the North is to invade the rights of the South, stating this in general language merely; and then, secondly, even if that were not so, and the North should get into a better temper in that respect, still no permanent peace could be expected, and no union long maintained, on account of the diversity of interests between the different portions of the Union. There is, according to the address, but one condition on which people can live together under the same government; and that is, where interests are entirely identical. An exact identity of interest, according to their notions, is the only security of good government.

Mr. BARNWELL. With regard to the first part, the honorable Senator is cor-

rect, and I have no doubt at all that is the character of the address, that, unless a great change be produced in the temper of the Northern people, and the treatment which they give to us on account of our institutions, no permanent union between us could exist. With regard to the latter part, I contend that the address contains no such sentiment. It states distinctly that, in the position which the different portions of the Union occupy with regard to each other, with the want of that identity of interest between them, it is absolutely essential to the South that its sectional interests should be independent of the control of the North.

Mr. WEBSTER. And what does that mean but separation?

Mr. BARNWELL. Not at all. It means what I have always alleged, that the North has no right to interfere with the institution of slavery. If that interference is stopped, we do not contend that there is any necessity for a dissolution of the Union. But if it is persisted in, then the opinion of the address is, and I believe the opinion of a large portion of the Southern people is, that the Union cannot be made to endure.

Mr. WEBSTER. It is hardly worth while, as the paper is not before us, for the honorable member from South Carolina and myself to enter into a discussion about this address. If I understand its argument, it is as I expressed it, that even if the North were better behaved, there is a want of identity of interests between the North and the South which must soon break up the Union. As far as regards the other remark, that the North must abstain from any interference with the peculiar institutions of the South, why, every sensible man in the North thinks exactly so. I know that the sensible men of the North are of opinion, that the institution of slavery, as it exists in the States, was intended originally to be, has ever been, and now justly is, entirely out of the scope and reach of the legislation of this Government; and this every body understands.

But I was saying that I can and shall not impute any sentiment of disunion to the South, generally. Why, whom do I sit among? With whom have I been associated here for thirty years? With good Union men from the South. And in this Chamber, and in late years, have there not been men from the South who have resisted every thing that threatened danger to the Union? Have there not been men here that, at some risk of losing favor with their own people at home, have resisted the Mexican war, the acquisition of territory by arms, nay, men who played for the last stake, and resisted the ratification of the treaty after the conquest was made, by which these Territories were brought under the control of this Government? Sir, with these recollections, which do so much honor to the character of these gentlemen, and with these acts, which attest the entire loyalty of the great body of the South to the Union, I shall indulge in no general complaint against them; nor, so far as it comes within the power of my rebuke, will I tolerate it. They have the same interests, they are descended from the same revolutionary blood, and believe the glory of the country to be as much theirs as ours; and I verily believe they desire to secure as perpetual an attachment to the North as the most intelligent men of the North do to perpetuate such an attachment with the South. I believe that the great masses of the people, both North and South, aside from the influence or agitation, are for the Union and for the Government; and God grant that they may remain so, and prevent every thing which may overturn either the one or the other! [Applause, instantly checked by the President.]

I was sorry to hear, because I thought it was quite unjust, that all the folly and madness of the recent expedition to Cuba was chargeable upon the South, generally. The South had nothing more to do with it than Massachusetts, or the city of Boston, or the city of New York. It is unjust to say that such a violation of the law was perpetrated by the South, or found more apology or justification in the general Southern mind, than it found in New York or in Massachusetts.

Mr. BUTLER, (in his seat.) Not a bit more.

Mr. WEBSTER. Now, the Senator from Connecticut told the truth the other day, and I am obliged to him for telling the truth. [Laughter.] I do not mean that it is unusual for him, [renewed laughter,] but I mean that it is a great deal more unusual, in the course of this debate, to hear the real truth spoken, than to hear ingenious sophisms, and empty abstractions. But he told us the truth in respect to these territorial acquisitions: that it was not the North or the South that were the real authors of that conquest, but that it was the party that supported Mr. Polk for the Presidency, and that supported his measures while in the Presidency. The South, undoubtedly, as the party most in favor of the administration, took the lead; and that part of the North that upheld the administration followed, not as little Iulus followed his father—"*non passibus equis*"—but with the same stride as its leaders. And therefore I was glad that my honorable friend from Connecticut, instead of giving us a normal, stereotyped speech against the South, told the truth of these transactions.

There are other topics, which I pass over. I said something formerly about the imprisonment of the black citizens of the North who go south, engaged in navigation, and are there arrested. That is a serious business, and we see that England has complained of it, as violating our treaty with her. I think that it is an evil that ought to be redressed; for I never could see any necessity for it, and am fully persuaded that other means can be taken to relieve the South from alarm without committing an outrage upon those who, at home, are considered as American citizens. At the same time I am bound to say that I know nothing in the world to prevent any free citizen of Massachusetts, imprisoned under the laws of South Carolina, from trying the question of the constitutionality of that law, by applying at once to any judge of the United States for a writ of *habeas corpus*. I do not think, therefore, that there was any great necessity of making it a matter of public embassy. I think that was rather calculated to inflame feeling, than to do good. But I must say, as I have said heretofore, that the gentleman who went from Massachusetts was one of the most respectable men in the Commonwealth, bearing an excellent character, of excellent temper, and every way entitled to the regard of others, to the extent to which he has enjoyed the regard of the people of Massachusetts.

Sir, I was in Boston some month or two ago, and, at a meeting of the people, said, that the public mind of Massachusetts, and the North, was laboring under certain prejudices, and that I would take an occasion, which I did not then enjoy, to state what I supposed these prejudices to be, and how they had arisen. I shall say a few words on the subject now. In the first place, I think that there is no prejudice on the part of the people of Massachusetts or of the North, arising out of any ill-will, or any want of patriotism or good feeling, to the whole country. It all originates in misinformation, false representation, misapprehensions arising from those laborious efforts that have been made for the last twenty years to pervert the public judgment, and irritate the public feeling.

The first of these misapprehensions is an exaggerated sense of the actual evil of the reclamation of fugitive slaves, felt by Massachusetts and the other New England States. What produced that? The cases do not exist. There has not been a case within the knowledge of this generation, in which a man has been taken back from Massachusetts into slavery by process of law, not one; and yet there are hundreds of people, who read nothing but abolition newspapers, who suppose that these cases arise weekly; that, as a common thing, men, and sometimes their wives and childern, are dragged back from the free soil of Massachusetts into slavery at the South.

Mr. HALE, (interposing.) Will the honorable Senator allow me to ask him a question? Is he not mistaken in the point of fact in regard to the State of

Massachusetts? I recollect something occurring in Massachusetts, not more than three or four years ago, in relation to a man by the name of Pierson, and that there was a large public meeting on the subject in Faneuil Hall.

Mr. Webster. I will state how that was. That was a case of kidnapping by some one who claimed, or pretended to claim, the negro, and ran away with him by force. What I mean to say is, that there has been no man, under the Constitution and laws of the country, sent back from Massachusetts into slavery, in this generation. I have stated before, and I state now, that cases of violent seizure or kidnapping have occurred, and they may occur in any State in the Union, under any provisions of law, and in respect to black persons or white persons.

Now, sir, this prejudice, made by the incessant attrition on the public mind by abolition societies, abolition presses, and abolition lecturers, has grown very strong. No drum-head, in the longest day's march, was ever more incessantly beaten and smitten, than public sentiment in the North has been, every month, and day, and hour, by the din, and roll, and rub-a-dub of abolition writers and abolition lecturers. That it is which has created the prejudice.

Sir, the principle of the restitution of runaway slaves is not objectionable, unless the Constitution is objectionable. If the Constitution is right in that respect, the principle is right, and the law providing for carrying it into effect is right. If that be so, and if there be no abuse of the right under any law of Congress, or any other law, then what is there to complain of?

I say, sir, that not only has there been no case, so far as I can learn, of the reclamation of a slave by his master, which ended in taking him back to slavery in this generation, but I will add that, so far as I have been able to go back in my researches, as far as I have been able to hear and learn in all that region, there has been no one case of false claim. Who knows in all New England of a single case of false claim having ever been set up to an alleged fugitive from slavery? It may possibly have happened; but I have never known it nor heard of it, although I have made diligent inquiry; nor do I believe there is the slightest danger of it, for all the community are alive to, and would take instant alarm at, any appearance of such a case, and especially at this time. There is no danger of any such violation being perpetrated. Before I pass from this subject, sir, I will say that what seems extraordinary is this, that this principle of restitution, which has existed in the country for more than two hundred years without complaint, sometimes as a matter of agreement between the Northern colonies and the South, and sometimes as a matter of comity, should all at once, and after the length of time I have mentioned, become a subject of excitement. I happen to have in my hand a letter from Gov. Berkely, the governor of Virginia, to Gov. Endicott, of Massachusetts, written in the year 1644—more than two hundred years ago—in which he says that a certain gentleman (naming him) had lost some servants, whom he supposes to have run away, giving their names, into the jurisdiction of Massachusetts; and the member from Kentucky [Mr. Clay] will be pleased to learn that it contains a precedent for what he considers to be the proper course of proceeding in such cases. Gov. Berkely states that the gentleman, the owner of the slaves, has made it appear in court that they are his slaves and have run away. He goes on to say, "We expect you to use all kind offices for the restoration to their master of these fugitives, as we constantly exercise the same offices in restoring runaways to you." At that day I do not suppose there were a great many slaves in Massachusetts; but there was an extensive system of apprenticeship, and hundreds of persons were bound apprentices in Massachusetts, some of whom would run away. They were as likely to run to Virginia as any where else; and in such cases they were returned, upon demand, to their masters. Indeed it was found necessary in the early laws of Massachusetts to make provision for the seizure and return of runaway apprentices. In all the revi-

sions of our laws, this provision remains; and here it is in the revised statutes now before me. It provides that runaway apprentices shall be secured upon the application of their masters, or any one on their behalf, and put into jail until they can be sent for by their masters; and there is no trial by jury in their case, either. I say, therefore, that the exaggerated statement of the danger and mischief arising from this right of reclaiming slaves is a prejudice, produced by the causes I have stated, and one which ought not longer to haunt and terrify the public mind.

With great respect, I will also state that I think it is a prejudice to insist with so much strength upon the application of the "Wilmot Proviso" to these Territories of New Mexico and Utah, because of its apparent inapplicability, and the want of all reasonable necessity for making that application in the manner proposed, and as it is offensive and affronting to gentlemen from Southern States.

Another prejudice against the South is just exactly that which exists in the South against the North, and consists in imputing to a whole portion of the country the extravagances of individuals.

Sir, I dwell no longer upon these subjects, into which I was led rather incidentally by a remark of my own, as I have said, in Boston.

But I return for a few moments to the general question. I will say, however, before I depart from this part of the case, that the State in whose representation I bear a part, is a Union State, thoroughly and emphatically; that she is attached to the Union and the Constitution by inseparable ties; that she connects all her own history from colonial times, her struggle for independence, her efforts for the establishment of this Government, and all the benefits and blessings which she has enjoyed under it, in one great attractive whole, to which her affections are constantly and powerfully drawn. All these make up a history in which she has taken a part, and the whole of which she enjoys as a most precious inheritance. She is a State for the Union; she will be for the Union. It is the law of her destiny: it is the law of her situation: it is a law imposed upon her by the recollections of the past, and by every interest of hers for the present, and every hope of hers for the future.

Mr. President, it has always seemed to me to be a grateful reflection that, however short and transient may be the lives of individuals, States may be permanent. The great corporations that embrace the government of mankind, protect their liberties, and secure their happiness, may have something of perpetuity, and as I might say, of immortality. For my part, sir, I gratify myself by contemplating what in the future will be the condition of that generous State, which has done me the honor to keep me in the counsels of the country for so many years. I see nothing about her in prospect, less than that which encircles her now. I feel that when I, and all those that now hear me, shall have gone to our last home, and afterwards, when mould may have gathered upon our memories, as it will have done upon our tombs, that State, so early to take her part in the great contest of the Revolution, will stand, as she has and does now stand, like that column which, near her Capitol, perpetuates the memory of the first great battle of the Revolution, firm, erect, and immoveable. I believe, sir, that if commotion shall shake the country, there will be one rock forever, as solid as the granite of her hills, for the Union to repose upon. I believe that if disasters arise, bringing clouds which shall obscure the ensign now over her and over us, there will be one star that will but burn the brighter amid the darkness of that night; and I believe that, if in the remotest ages—I trust they will be infinitely remote—an occasion shall occur when the sternest duties of patriotism are demanded and to be performed, Massachusetts will imitate her own example; and that, as at the breaking out of the Revolution, she was the first to offer the outpouring of all her blood

and all her treasure in the struggle for liberty, so she will be hereafter ready, when the emergency arises, to repeat and renew that offer, with a thousand times as many warm hearts, and a thousand times as many strong hands.

And now, Mr. President, to return at last to the principal and important question before us: What are we to do? How are we to bring this emergent and pressing question to an issue and an end? Here have we been seven and a half months, disputing about points which, in my judgment, are of no practical importance to one or the other part of the country. Are we to dwell forever upon a single topic, a single idea? Are we to forget all the purposes for which governments are instituted, and continue everlastingly to dispute about that which is of no essential consequence? I think, sir, the country calls upon us loudly and imperatively to settle this question. I think that the whole world is looking to see whether this great popular Government can get through such a crisis. We are the observed of all observers. It is not to be disputed or doubted, that the eyes of all Christendom are upon us. We have stood through many trials. Can we stand through this, which takes so much the character of a sectional controversy? Can we stand that? There is no inquiring man in all Europe who does not ask himself that question every day, when he reads the intelligence of the morning. Can this country, with one set of interests at the South, and another set of interests at the North, these interests supposed, but falsely supposed, to be at varinace, can this people see what is so evident to the whole world beside, that this Union is their main hope and greatest benefit, and that their inerests are entirely compatible? Can they see, and will they feel, that their prosperity, their respectability among the nations of the earth, and their happiness at home, depend upon the maintenance of their Union and their Constitution? That is the question. I agree that local divisions are apt to overturn the understandings of men, and to excite a belligerent feeling between section and section. It is natural, in times of irritation, for one part of the country to say, if you do that I will do this, and so get up a feeling of hostility and defiance. Then comes belligerent legislation, and then an appeal to arms. The question is, whether we have the true patriotism, the Americanism, necessary to carry us through such a trial. The whole world is looking towards us with extreme anxiety. For myself I propose, sir, to abide by the principles and the purposes which I have avowed. I shall stand by the Union, and by all who stand by it. I shall do justice to the whole country, according to the best of my ability, in all I say, and act for the good of the whole country in all I do. I mean to stand upon the Constitution. I need no other platform. I shall know but one country. The ends I aim at shall be my country's, my God's, and Truth's. [Applause in the galleries, immediately suppressed by the Chair.] I was born an American; I live an American; I shall die an American; and I intend to perform the duties incumbent upon me in that character to the end of my career. I mean to do this, with absolute disregard of personal consequences. What are personal consequences? What is the individual man, with all the good or evil that may betide him, in comparison with the good or evil which may befall a great country in a crisis like this, and in the midst of great transactions which concern that country's fate? Let the consequences be what they will, I am careless. No man can suffer too much, and no man can fall too soon, if he suffer, or if he fall, in defence of the liberties and Constitution of his country.

SPEECH

OF

MR. BENTON, OF MISSOURI,

AGAINST CEDING SEVENTY THOUSAND SQUARE MILES OF NEW MEXICO TO TEXAS.

IN THE SENATE OF THE UNITED STATES, JULY 15, 1850.

Mr. BENTON offered the following amendment to the Compromise Bill:

"Strike out of proposition 'first' of section 30, after the word 'beginning,' these words: 'at the point on the Rio del Norte, commonly called El Paso, and running up that river twenty miles, measured by a straight line thereon, and thence eastwardly to a point where the 100th degree of west longitude crosses Red river, being the southwest angle, in the line designated between the United States and Mexico, and the same angle in the line of the territory set apart for the Indians by the United States,' and insert after the said word 'beginning' these words: 'at the point in the middle of the deepest channel in the Rio Grande del Norte, where the same is crossed by the 102d degree of longitude west from the meridian of Greenwich; thence north, along that longitude, to the 34th degree of north latitude; thence eastwardly to the point at which the 100th degree of west longitude crosses the Red river."

The amendment being stated by the Chair, Mr. BENTON said:

The motion is to strike out and insert—to strike out the committee's proposed line for the western boundary of Texas, and to insert a different one in place of it. The committee's line begins twenty miles, on a straight line, above El Paso, and runs northeastwardly to the point at which the Red river is crossed by the one hundredth degree of west longitude. The line I propose begins in the middle of the channel of the Rio Grande del Norte, where it is crossed by the one hundred and second degree of west longitude, about three hundred miles, on a straight line, below El Paso, and runs north with that longitude to the thirty-fourth parallel of north latitude, where it strikes the committee's line; and thence, with that line, to its termination at the intersection of the Red river by the one hundredth degree of west longitude. These are the two lines, and the difference between them is a difference of seventy thousand square miles cut off from New Mexico and given to Texas.

My objections to the committee's proposed line were stated in a former speech, and nothing which was then said will be repeated now. The point of those objections was, that that line was a dismemberment of New Mexico, cutting off seventy thousand square miles of its territory, and giving it to Texas. My reasons for the line I propose were also stated in the same speech, and will not be repeated now. Their point was, that a line along the one hundred and second degree of west longitude would be the proper boundary between New Mexico and Texas—the one that would conform to the actual possessions of both countries, to their civil and geographical divisions. Without repeating arguments formerly used, my design is to rise higher, and establish the same points by new and closer evidence, drawn, as the rhetoricians express it, *ex visceribus causæ*—from the bowels of the case—that is to say, from the bill and report of the committee itself, and from the authentic map of the State of Texas.

I begin with the committee's bill, and show from it that a cession of a part of New Mexico to Texas, and not the ascertainment of the true line between them, was the object of the committee; and that in fact they make a cession of one half of New Mexico to Texas, and then accept a cession of the other half from her, and then propose to pay her a large sum of money besides. Here is the ceding clause in the committee's bill:

"*Second.* The United States *cede* to the State of Texas all right, claim, and title which they have to any territory lying *south* of the line aforesaid. And the said State of Texas *cedes* to the United States any right, claim, and title which it has to any territory lying *north* of the said line."

These are the words of the committee's bill—a cession—a mutual cession of territory from each to the other, and in terms which imply title in each. The United States cede to Texas all the territory that lies south of the committee's line; Texas cedes to the United States all the territory that lies north of it. It is the act of two owners acting independently of each other, and making an exchange of land, and in terms which imply an equality of title in the respective cessions. Upon the words of this clause, then this transfer to Texas is a cession from the United

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States, and conveys to Texas the right, title, and claim of the United States to all the territory ceded. Another part of the bill is equally explicit in treating this transfer as a cession. The sixth clause is in these words:

"*Sixth.* If the said State of Texas shall *refuse* or *decline* to acceded to the preceding articles, they shall become *null and void*, and the United States shall be *remitted back* to all their territorial *rights*, in the same state and condition as if these articles of compact had never been tendered to the acceptance of the State of Texas."

This is confirmation, both of the cession and of the title of the United States. It makes a provision for resuming the title of the United States if the exchange is not agreed to by Texas. It remits the title—sends it back—to the United States if Texas does not accept! and, to give more emphatic meaning to this remission, as a return to its former owner, the expletive "back" is superadded— a redundancy of phrase which could only be justified by the extreme desire of saving the title of the United States if the committee cannot succeed in giving it away.

The report of the committee, in explanation and support of their bill, fully accords with these two clauses of the bill itself. It treats the line they propose as making a cession of United States territory to Texas, and carefully reclaims the title, if the cession is not accepted. Thus:

"If this boundary be assented to by Texas, she will be quieted to that extent in her title. And some may suppose that, in consideration of this *concession* by the United States, she might, without any other equivalent, relinquish any claim she has beyond the proposed boundary: that is, any claim to any part of *New Mexico*. But, under the influence of a sentiment of justice and great liberality, the bill proposes to Texas, for her relinquishment of any such claim, a large pecuniary equivalent."

And again:

"It cannot be anticipated that Texas will decline to accede to these liberal propositions; but if she should, it is to be distinctly understood that the *title* of the United States to any territory *acquired* from *Mexico* east of the Rio Grande, will remain *unimpaired*, and in the same condition as if the proposals of adjustment now offered had never been made."

Here are two distinct confirmations of the meaning expressed in the Committee's bill, and shows that the import of the words employed by them was duly and cautiously considered. "Concession" is the term they apply to it, which is the equivalent of cession, which is itself equivalent to the word grant. "Unimpaired" is to be the state of the United States title, if the concession is not accepted by Texas; and, as an acquisition from Texas, the remaining part of New Mexico is proposed to be held. The words all imply cession and acquisition; and in that, the bill and report are right. It is a cession of seventy thousand square miles of New Mexico to Texas for nothing! with a proposal to purchase the remaining part of New Mexico from her at a greater price! The whole crowned by a bungling salvo to save our title "unimpaired," if Texas cannot be induced to accept these fine terms—terms which give her both our land and our money. Thus, the report accords with the bill, and sustains my proposition.

I now proceed to other evidence.

Here is a map! the title, contents, date, and verification of which are vital to this inquiry. It is entitled, A MAP OF THE STATE OF TEXAS, BY CORDOVA; and it declares itself to be compiled from the records of the General Land Office of the State, and is dated in the spring of 1848, and professes to give every county, every town, land district, river and stream in the State; and is verified by the signatures of the Senators and Representatives of the State in Congress, by the Commissioner of the General Land Office, and the attestation of the Governor, and of the Secretary of State. It must be assumed to be an authentic map of the State, such as it was at the time of its compilation—Spring of 1848—and will not be questioned by Texas, and is the sole evidence for which the United States will have occasion in maintaining the possession of all New Mexico until the question of title shall be competently disposed of. It shows the possession of Texas as it stood at the time that the United States acquired New Mexico. It is the map of possession—the map of the State as possessed—at that identical moment, vital to this question: it extends from the Sabine to 102 deg. of west longitude. And here is a reduced map in the corner of the large one, embracing the country from the Mississippi river to the Pacific ocean, and showing the whole extent of the claim of Texas. I will explain the reduced map first. Here it is, (holding it up.) The blue color represents the whole claim of Texas, extending to the head of the Del Norte, and thence to north latitude 42 deg., where it corners with Oregon and California, having "Santa Fe county" written upon it, near San Miguel—the place where the Texan expedition was taken prisoner in the year 1841. The small red and yellow squares in the eastern part of this little map represent the counties, land districts, and the colonial land grants in Texas; and they show that the longitude of 102 deg.—the same which I propose for the western limit of Texas—was the utmost limit to which any land district or occupied county then extended. Fannin land district extended precisely to that longitude, and is bounded by it. Bexar county extended in that direction, but without a settler near it. This is what the little map shows—the whole claim of Texas, covering all New Mexico east of the Del Norte—and her actual possession limited to the eastern side of the longitude of 102 deg.

I now recur to the large map, entitled *A Map of the State of Texas;* and first read the certificates of verification which I find on its face. These are they:

"WASHINGTON CITY, *August* 22, 1848.

1. "We the undersigned Senators and Representatives from the State of Texas do hereby certify, that we have carefully examined J. De Cordova's map of the State of Texas, compiled by R. Creuzbawr, from the records of the General Land Office of Texas, and have no hesitation in saying that no map could surpass this in accuracy and fidelity. It has delineated upon it every county in the State, its towns, rivers, and streams; and we cordially recommend it to every person who desires correct geographical knowledge of our State. To persons desirous of visiting Texas it will be invaluable."

[Signed: Thomas J. Rusk, Sam Houston, David S. Kaufman, S. P. Pilsbury.]

2. "I hereby certify, that this map has been compiled from the records of the General Land Office, by Robert Crenzbawr, and that it is the most correct representation of the State which I have seen, or which has come within my knowledge. The meanders of the rivers are all correctly represented, being made from actual surveys."

[Signed by Thomas W. Ward, at Austin, July 4, 1848.]

3. "The undersigned, Commissioner of the General Land Office of the State of Texas, has no hesitancy in declaring it as his firm conviction, that this map is a very correct representation of the State, representing all returns up to date, having been compiled with great care from the records of the General Land Office by the draughtsman, Robert Creuzbawr."

[Signed July 4, 1848: George W. Smith.]

4. "State of Texas: I certify that George William Ward was Commissioner of the General Land Office from the 5th day of January, 1841, to the 20th day of March, 1848; and also that George W. Smith is now and has been Commissioner as aforesaid since the said 20th day of March last. In testimony whereof, I have hereunto set my hand and affixed the seal of the State, at Austin, the 7th day of July, 1848, and of the independence of Texas the thirteenth year."

[Signed, George T. Wood: countersigned by the Secretary of State, W. D. Miller.]

This is the authentication of the map, and certainly nothing could be more full and satisfactory. The dates of the certificates are also most essential; for they show the map to have been compiled as late as the Spring of 1848, the very date of the treaty with the Republic of Mexico, as if compiled for the exact purpose of showing the United States the extent of the Texan possession on the day she became interested in the question, by becoming the owner of the territory contiguous to Texas. Here is this authentic map. Look at it—(holding it up.) It is large enough to be seen across the Chamber, and shows objects with sufficient distinctness to be discerned by all. Its western limit is the longitude of 102! the very limit I propose, as if I had made the map myself to suit my bill. Here is the longitude of 102 constituting the western limit of the map, running through the centre of the Staked Plain, leaving every country, every town, and every land district, and every stream and river of Texas, with all their head springs and sources to the east, leaving the whole course of the Puerco and its valley to the west, and striking the del Norte just below the mouth of the Puerco, and three hundred miles on a straight line below El Paso. Behold it! Here is 102 cutting the long blank space marked *El Llano Estacado*, the Staked Plain; and here are all the breaks in the eastern declivity of that long, broad, and sterile table land, from which issue the thousand little streams which, taking their course towards the rising sun, and gathering themselves into large channels, give birth to all the beautiful rivers of Texas—the Colorado, the Brasos, (Los Brasos de Dios, the Arms of God,) the Nueces, and the southern forks of the Red river. There they all are! Everything that is Texan by nature or by law! Rivers, towns, counties, all to the east of 102, and all separated from New Mexico by the high desert plain which marks the structure of the country, and divides systems of rivers and of lands from each other.

This is the line which I propose, and upon the adoption of which the sense of the Senate will be taken. It is entirely different from that of the committee, and makes a difference of 70,000 square miles to the United States territory in New Mexico, according to its adoption or rejection.

I have diligently studied the report of the committee to find out the principle on which they could take a line beginning above El Paso to divide the territories of New Mexico and Texas—a line which, conforming to neither claim, falsifies both! and which, contradicting history, geography, and law, invalidates itself! I have been greatly at a loss to discover the principle on which such an anomalous line could be based; and suppose I have found it, so far as it can be found, in the paragraph of the committee's report, which I will now read. This is it:

"The committee beg leave next to report on the subject of the northern and western boundary of Texas. On that question a *great diversity* of opinion has prevailed. According to *one view* of it, the western limit of Texas was the *Nueces*; according to *another*, it extended to the *Rio Grande*, and stretched from its mouth to its source. A *majority* of the committee, having come to the conclusion of recommending an *amicable adjustment* of the boundary with Texas, *abstain from expressing any opinion as to the true and legitimate* western and northern boundary of that State. The terms proposed for such an adjustment are contained in the bill herewith reported, and they are, with inconsiderable variation, the same as that reported by the Committee on Territories.

"According to these terms, it is proposed to Texas that her boundary be *recognised* to the Rio Grande, and up that river to the point *commonly called El Paso*, and running thence up that river twenty miles, measured thereon by a straight line, and thence eastwardly to a point where the hundredth degree of west longitude crosses Red river; being the southwest angle in the line designated between the United States and Mexico, and the same angle in the line of the territory set apart for the Indians by the United States."

This is it! and a pretty light it is to guide the Congress of the United States—a great diversity of opinion among the people, and no opinion at all in the committee. Some think the Nueces the true and legitimate western boundary; some think it extends to the Rio Grande. The committee think neither one nor the other, nor anything else; but, having come to the conclusion to recommend an amicable adjustment, they abstain from expressing any opinion as to the true and

legitimate western boundary of Texas! and then, without any regard to what is either true or legitimate, they cut New Mexico in two, and give half of her to Texas. If the committee had studied the question of boundary, and expressed an opinion, and then made their line conformable to it, their recommendation might have been entitled to great weight. But they do no such thing. They do not study the question. They expressly abstain from it. They neither give an opinion of their own nor adopt that of anybody else. They neither take the Nueces, as they say some believe, nor the Rio Grande, as they say others believe; nor name any line which they themselves believe; but, going it blind—making a half and half business of it—cutting instead of untying the Gordian knot—they take a new course across the Puercos, beginning half way up the Del Norte, cut New Mexico in two just below the hips, and give the lower half to Texas, leaving New Mexico to stump it about as she can, without feet or legs.

This is called abstaining from expressing an opinion; but it is certainly acting an opinion, and executing it also. They amputate New Mexico—cut her in two just below the middle—give half to Texas—and call that no opinion. Sir, there was once a dispute before a wise man with respect to the maternity of a child. Two different women claimed to be its mother, and Solomon, puzzled with their contradictory asseverations, and not able to decide which was the true and legitimate mother, and abstaining from expressing any opinion, ordered the child to be cut in two, and half of it to be given to each. You know how it ended. The true mother would not have the child cut in two! and the wise man knew that! and his judgment was nothing but a device to find out the truth by making nature speak. I do not know whether our committee have acted on the policy of Solomon—Solomons though they all may be; nor in fact upon what policy or principle they acted. There is no point from the head to the mouth of the river which may not be taken on the same principle. Amicable adjustment is the only rule they profess, and that seems to be very amicable; and, according to what they propose, all their amicability runs in one channel, and all their adjustment leans to one side. They give seventy thousand square miles of New Mexico to Texas, and offer her ten millions of dollars to accept it! This is amicable enough to Texas, and adjustment enough to suit her! But how does it suit the United States and New Mexico? How does it suit truth and justice—that true and legitimate line which the committee did not even pretend to ascertain?

The committee propose a consideration to be paid by the United States to Texas—how much they do not say in their bill or report, but rumor talks of ten millions of dollars. This is what the report says:

"As a consideration for it, and considering that a portion of the debt of Texas was created on a pledge to her creditors of the duties on foreign imports, transferred by the resolution of annexation to the United States, and now received and receivable in their treasury, a majority of the committee recommend the payment of the sum of —— millions of dollars to Texas, to be applied in the first instance to the extinction of that portion of her debt for the reimbursement of which the duties on foreign imports were pledged as aforesaid; and the residue in such manner as she may direct. According to an estimate which has been made, there are included in the territory to which it is proposed that *Texas shall relinquish her claim, embracing that part of New Mexico lying east of the Rio Grande*, a little less than 124,933 square miles, and about 79,957,120 acres of land. From the proceeds of the sale of this land, the United States may ultimately be reimbursed a portion, if not the whole, of the amount of what is thus proposed to be advanced to Texas."

The consideration is not named; but some things are named which may help to form a judgment as to what it ought to be. Let us consider them. In the first place, this is an affair of mutual cession—an exchange of land—so much on one side, and so much on the other—and then boot from the United States to Texas to the figure of some millions. The first question is, how much land does each give? And the committee answers for Texas, with great precision, a little less than 124,933 square miles, including that part of New Mexico which lies east of the Rio Grande; and I answer for New Mexico, 70,000 square miles, including the El Paso and Puerco country. Upon the figures, Texas would seem to have ceded most, and entitled to receive boot; but when it comes to be considered that this cession from Texas includes all New Mexico east of the Del Norte, from twenty miles above El Paso to the head of the river—that it cedes five hundred miles of what was New Mexico for a hundred years before the name of Texas had been heard of—that it includes thirty towns and villages, and seventy thousand New Mexican people who admit no allegiance to Texas—then it becomes a question whether this five hundred miles of New Mexico should not be deducted from the committee's quantity of 124,933 square miles. I happen to be of that opinion; and so would deduct about 50,000 square miles from the committee's count. That would make the two cessions about equal in extent, about equal in quantity. And now for quality and value. How would the two cessions stand in that respect? Evidently the 70,000 square miles taken from New Mexico is worth more than the 75,000 ceded by Texas. It is in a better climate, being all of it south of 34 deg., and part as far south as 29½ deg.; while the Texan cession goes up to 42 deg., in the Rocky Mountains—within thirty miles of the South Pass, and cornering on Oregon and California. It is better land. It has civilized people upon it—four or five thousand at San Eleazario, and two or three thousand at other places. It is unincumbered with resident Indians, and will be ready for immediate sale and settlement, and lies in the direct track from the lower Mississippi to the northern parts of the Republic of Mexico, and the Gila route to California and the Pacific ocean.

It is the most valuable cession, equal in extent, better in climate and quality, and more desirable from position. And yet the committee propose boot—good boot—some millions. That is not the rule in the horse swap. It is not the rule to give the best horse, and then give the price of the other in boot, especially when both horses belong to yourself.

The committee, in their report, seem to be a little conscious that they were rather overdoing the matter in this article of compensation to Texas—this new mode of swapping land—giving the best land, and then giving boot besides. They say:

"If this boundary be assented to by Texas, she will be quieted to that extent in her title. And *some* may suppose that in consideration of this *concession* by the United States, she might, without any *other equivalent*, *relinquish* any claim she has beyond the proposed boundary: that is, *any claim to any part of New Mexico*. But, under the influence of a sentiment of justice and *great liberality*, the bill proposes to Texas, for her *relinquishment of any such claim*, *a large pecuniary equivalent*,"

This is candid. Doubtless many will suppose, as the committee think some will, that the United States had given land enough without superadding money to it. They would think so upon the very reasonable principle, that when a man had given up half his land to quiet a claim to it, that he should not pay money for the other half, especially when he believed both halves belonged to himself, and when he had possessed it all for two hundred and fifty years. It is very reasonable in such a case, that some would suppose that he had done enough in giving up half. I, myself, would certainly be one in that some. But, not so the committee. They have a new rule to go by, unknown in trade or politics before. They have recourse to sentiment! and, under its influence, and from a feeling of great liberality, they will make "other equivalent" to Texas for relinquishing her claim to the rest of New Mexico, This is the way it stands in the committee's bill and report; and I give what they say in their own words, that there may be no mistake about it; another equivalent is what they propose. One might suppose that one equivalent was enough, but they propose another, so that there shall be both a moneyed and a landed equivalent to Texas. Now, I object to all this. I object to accept a cession of New Mexico from Texas, first, because the United States has a claim to it herself, and has the actual possession, which is a right to possession until the claim is decided. Secondly, because the acceptance of such a cession would admit the title of Texas to all New Mexico east of the Rio Grande, and so raise questions to disturb both New Mexico and the United States. Thirdly, because we give more valuable territory than we receive, and then pay the value of what we receive into the bargain, and which was our own before.

Sir, this is strange work. A committee undertaking to guide, in a case where they admit they have not looked for either truth or law—prescribing a line, which they admit to be neither true nor legitimate—abstaining from expressing an opinion, and yet forcing an opinion—making a sacrifice, and calling it a compromise—undertaking to save New Mexico, and saving her by giving away one-half, and purchasing the other half. This is strange work, and new work, in the American Senate: but let us go on with it.

The committee propose a consideration in money to Texas for accepting their line. Upon what principle? It is an exchange of territory—a mutual cession—and Texas receives better than she gives. Is it for the remaining part of New Mexico? If so, it is unjustifiable to purchase what we already possess, and dangerous to rouse the questions to which the admission of Texan title to New Mexico would inevitably give rise. This is too serious a question to be lightly evoked. If the State of Texas now covers the Santa Fe country, as the bill and report of the committee admit, then the constitution and laws of Texas are in force there! and this is what the Senate will say if it sanctions the committee's bill; and what cannot be said without rousing great questions.

A moneyed consideration is to be paid to Texas, but how much is kept a profound secret, for the profound reason of preventing jobbing in this Texas stock. In the meantime it seems to be known, in the knowing circles, that ten millions is the amount to be offered; and on that basis stock-jobbing is rife! and three hundred per centum has already been the advance. The chance of California for admission, and of the two territories for governments, rises and falls with this rise and fall of Texas stock. They are all in one cart together—California, Utah, New Mexico, Texas boundary, and Texas stock; and must all go through, or balk together; and all depends upon the Texas stock.

The committee say, in their report, it is not to be anticipated that Texas will refuse to accede to their liberal propositions. That, I presume, will depend upon the amount of money with which that carefully-guarded blank is to be filled; and that is not to be filled until the last moment—until the bill is on its third reading. Then the filling is to come; and upon the quantity of it, I presume, the vote of the State of Texas is to depend—both the State in its rejection, or acceptance of the proposed terms, and her representatives here, in voting for or against the bill which contains them. I speak of the State and of her representatives here, as I would speak of my own State, and of myself, under the like circumstances. Our first duty is to our own State; and under the sense of that duty, the vote of the Texas Senators on this bill—this omnibus bill, in which the admission of California and governments to two Territories is mixed up with money to

Texas—their vote upon the whole bill must depend. Money enough to Texas, and they go it! and all the measures are carried. Not money enough to Texas, and they halt! and all the measures are lost. It is not only an enormity in itself to make the passage of the other great measures dependent upon the amount of money voted to Texas, but it leads to a vicious and condemnable mode of fixing that amount. It leads to voting the amount, not which Texas ought to receive, but of what will pass the bill! and to the contrary, what will defeat the bill. Thus, those intent upon the bill must vote a large sum to secure the Texas vote: those opposed to it must vote a small sum, or nothing, in order to defeat it. This is vicious voting, and to be condemned everywhere. A jury that should make up a verdict in that way would have their verdict set aside, and themselves reprimanded. What should be done to us and our verdict under the same circumstances? For one, I confess the vice of my vote, and lay its blame on those who force me into the false position in which I am to vote. In a bill by herself, and for such a line as I propose, I would vote Texas a liberal sum: in this connection, and under these circumstances, not a cent.

Mr. President, there is something overruling in the affairs of men, which, in the end, brings out things right, and establishes the dominion of truth and justice; and never was this overruling superintendence more visible than now. Here are measures of the most discordant kind clapped together in one bill, in violation of all parliamentary law, and to the ruin of all fair legislation, in order to force some measures to carry others. It is the most flagrant case of parliamentary impropriety which the history of our legislation has ever presented; and, to rebuke and crush it, here is the highest proof of its enormity which the wisdom of man could have devised. Votes are nearly balanced on this floor, for or against this conglomerate bill. There are two Texas votes on this floor, and they count four—two off and two on—and every one knows that these votes will decide the fate of the bill, and that they themselves will be decided by the amount of money to be voted to Texas. Sir, I touch a point which is still ahead, and which I will not develope now. When we come to the filling up of that mysterious blank, so carefully guarded, I may be able to demonstrate that the effect of this conglomeration of bills, and that reservation of a blank, to be filled at the last moment, is to open an auction upon the floor of the Senate, for the votes which are to carry through the omnibus bill, with all its multifarious and heterogeneous contents. The filling of the blank may develope the fact, that the admission of California, and the establishment of governments for two Territories, may depend upon the amount of money to be paid to Texas; and, if it does, it will present the highest evidence of the flagrant enormity of tacking incongruous bills together which the history of American or British legislation has ever exhibited. The bill is caught *flagrante delicto*—taken in the fact—seized by the throat, and held up to public view—(and here Mr. B. grappled a bill and held it up) in the very act of perpetrating its crime—in the very act of auctioneering for votes to pass itself. I seize it in the act, and hold it up to public opprobrium, and make it an era to be recurred to, and its fate to stand as a warning against all future conjunctions of incongruous measures.

I beg my friends from Texas (Messrs. Houston and Rusk)—and I call no man friend without being ready to stand for a friend when one is needed—I beg them to take what I say in the sense I intend it. In their place, I should do as they will do—vote for or against the bill, and all its measures, according to the amount of money to go into the blank—and with the same sentiment of profound humiliation which they must feel. And this shows the enormity of such unnatural conjunctions of discordant measures. And here I will use an argument but lately come to hand, but which ought to have its weight on this occasion. I allude to the new constitution of Kentucky, and its salutary provisions against the ruinous practice of "log-rolling." In section thirty-seven of article two of that instrument, there is this provision: Every bill shall contain but one subject, and that shall be clearly explained in the title. This is the sentiment of Kentucky on the fatal practice of tacking incongruous bills together. She has pointed her constitutional cannon against it. True, we are not bound by the provisions of her constitution; but we are bound to respect the principle of morality in which it is founded, and of course to condemn and repudiate this omnibus bill, freighted with so many subjects, and dependent for its passage on the amount of money to be voted out of the public Treasury to the State of Texas.

Sir, I have myself, in a bill now before the Senate, proposed a compact with Texas for the settlement of her western boundary; but I proposed no mutual cessions—no exchange of territory—no dismemberment of New Mexico—no purchase of the Santa Fe country—no giving away our own territory, and paying Texas to take it. My proposals steered clear of all that folly and blunder. This is what I proposed:

"Art. 3. *The State of Texas cedes to the United States all her territory exterior to the limits to which she reduces herself by the first article of this compact.*"

And the limits then proposed by me for her reduction were the same now proposed—102 deg. of west longitude, and 34 deg. of north latitude. This is all the cession that my bill proposed—a cession from Texas only—and not of all *the* territory, but of all *her* territory exterior to her reduced limits. This avoided the consequences of a cession from her of the whole country, including New Mexico as a part of Texas. It avoided the consequence of holding the Santa Fe

country as a purchase from Texas. It avoided the consequence of admitting all that country to have been a part of the State of Texas. It avoided all the serious and disturbing consequences in which the Committee's bill would involve us. For such a line as I proposed to Texas, ceding no territory to her, accepting no title to New Mexico from her, leaving New Mexico intact, and conforming to ancient title and to present actual possession, I would vote fifteen millions of dollars; for such a line as the Committee propose, not a copper.

The Committee can find no excuse in my offer for theirs. And here I address myself most especially to that member of the Committee (Mr. COOPER, of Pennsylvania) who seems to have become its organ at this point; and I say to him, and through him to the Committee, there is nothing in the one to justify the other. The two offers are as different as the two extracts from that sarsaparilla root—"*Heaven wide apart, and infinitely dissimilar, and not alike in any two particulars, and having no two qualities in common.*" One begins twenty miles, in a straight line, above El Paso—the other three hundred miles in a straight line below it. One is latitudinal—the other longitudinal. One runs east—the other north. One cuts New Mexico in two—the other goes round her. One cedes seventy thousand square miles of New Mexico to Texas—the other cedes nothing to her. One accepts the remainder of New Mexico as a cession from Texas—the other holds her as a cession from the Republic of Mexico. One conforms to ancient title, present possession, and geographical affinities—the other violates all these conditions. One raises the slave question, and in its double aspect of actual extension of slavery into one half of New Mexico, and its implied legal existence in the other half—the other avoids both these questions by leaving both New Mexico and Texas just as they are. One admits the Texan laws and constitution to be in force in all New Mexico east of the Rio Grande—the other asserts the Mexican law to be in force there. These are some of the points of difference between my offer and the Committee's, and which I will thank the Senator from Pennsylvania (Mr. COOPER) to recollect the next time he speaks on the subject, and credit the differences on the right side of the account. But there is another difference, and of another kind, between the two offers, and which may be fully developed when we come to the work of filling up that coy and sensitive blank, upon which the Committee are so dumb, and the knowing ones so knowing. My offer affects no other bill, or measure. It is in a bill by itself. It is a Texas bill, and confined to Texas. The money it proposes carries no influence, good or bad, to any other bill or measure—has no effect on the life or death of California, or the two territories. It carries no votes, for or against them—excites no stock-jobbing interest, for or against them. It is a parliamentary bill, confined to its own subject, unmixed with any question, claiming decision on its own merits alone, and leaving all other bills to be decided, in like manner, upon their own merits. This is a particular difference between the Committee's bill and mine, in addition to all the other differences between them, and which, at the proper time, I shall more fully develop: and, in the mean time, must remind the Senator from Pennsylvania not to overlook these differences when he comes again to fortify his intended vote for sacrificing New Mexico by a reference to my bill for saving her.

The committee, as a justification for ceding the one-half of New Mexico to Texas, and then purchasing the other half from her, argue that it is the only way to prevent Texas from swallowing her all up. This was a great mistake in law, and a further mistake in fact, in supposing that the President—the then President, General Taylor—would not do his duty. There were three ways to save New Mexico without giving up any part of her to Texas. First, for the United States to occupy her as she was on the day of her cession by the Republic of Mexico; secondly, by a suit in the Supreme Court; thirdly, by offering a fair compact, based upon the true boundary. By either of these three ways New Mexico could be saved; and the late President, in a message before his death, let us know that he would do his duty, and maintain the possession until the question of title should be decided by the competent authority. This is his message:

"I have already, in a former message, referred to the fact that the boundary between Texas and New Mexico is disputed. I have now to state that information has been recently received that a certain Robert S. Neighbors, styling himself commissioner of the State of Texas, has proceeded to Santa Fe with the view of organizing counties in that district, under the authority of Texas. While I have no power to decide the question of boundary, and no desire to interfere with it as a question of title, I have to observe that the possession of the territory into which it appears that Mr. Neighbors has thus gone, was actually acquired by the United States from Mexico, and has since been held by the United States, and, in my opinion, ought so to remain until the question of boundary shall have been determined by some competent authority. Meanwhile, I think there is no reason for seriously apprehending that Texas will practically interfere with the possession of the United States."

This is the message of the late President, and it is the law and the prophets, brief and simple, but true and wise, and putting to flight the main argument for the dismemberment of New Mexico. He tells you that he will maintain the possession, such as it was when the United States received it, until the question of boundary should be decided by the competent authorities. This is enough for us. We are in possession, and have only to retain it. These were the resolves of the late President, and there is no dispute about them. He spoke for himself, and his words will stand, a monument to his memory—a monument to his judgment to see the right, and to his firmness in maintaining it. It was his last message, and the symbol of his character—brief, plain,

honest, wise, firm, and to the point. It was worthy to be the last message of General Taylor, and will go into the heads and hearts of the people, and will remain on the memory of his country longer than graven words can remain upon stone or brass. I make no allusion to the present President. It would be unparliamentary and indecorous to do so. He has sent us no message. But we are bound to believe that he will do his duty, as he understands it, and at all events we have no right to act upon a contrary supposition—to suppose that the President will not maintain the attitude of his predecessor, and thereby make it necessary for Congress to do something in his place.

Mr. President, we are a government of divided powers—legislative, executive, and judicial—and no one department has a right to assume that another department will not do its duty, and thereupon assume those duties itself, or do something that it ought not to do, on the supposition that the other departments will do nothing. Such assumptions and interferences are the bane of all government, and the excuse for much wrong. We have seen how mistaken it was to assume such a thing of the late President—it was to suppose that he would not do his duty in maintaining the possession of New Mexico—and make that supposition our excuse for giving her away. It may be equally mistaken to make the same supposition of his successor; but I will not suppose one way or the other. I rest on the principle of parliamentary law and decorum, and will not suppose, or presume, a delinquency of duty on the part of any other department of the Government; and, rising above all party feelings, shall hold myself ready in the case of President Fillmore, as in that of President Taylor, to sustain him in the full execution of all his constitutional duties when I believe him to be right.

The late President, in that same message, informed Congress that he saw no reason to apprehend that Texas would practically interfere with the possession of the United States. The expression was honorable to him. It was as much as to say that he did not believe that Texas would commit a breach of law and order, and set an example of violence and bloodshed in the assertion of a contested claim. I do not know whether circumstances had occurred to induce him to qualify that opinion, but I join him in it; and if, unfortunately, it should turn out to be a mistake, and Texas troops should be marched upon New Mexico, I have my future course to find in my past conduct, and to do by the Texas authorities what I did by the Missouri authorities, in a similar case, a few years ago. And here I touch a point which I have never made public in relation to my own conduct, and that of my then colleagues in the boundary dispute between the State of Missouri and the Territory of Iowa. Every body knows of the dispute, and how the two Governors levied troops, marched battalions, and prepared to fight battles; but no one knows how these warlike preparations were stopped. I will tell you how it was done. When the Missouri delegation here heard that their Governor was marching troops upon Iowa, they got together, consulted on the case, and addressed a private letter to the Governor to let him know that they could not support him in such a movement, and recommending the cessation of military and the commencement of judicial proceedings. The advice, or something else, prevailed; military operations stopped, judicial proceedings began, Missouri lost the land, but gained the honor of submitting to the laws of the land.

Dr. Linn, whose brother and nephew sit on my left, (Mr. Dodge, of Wisconsin, and Mr. Dodge, of Iowa,) was then my colleague in the Senate, ex-Governor Miller and Mr. Edwards our colleagues in the House of Representatives. We were friends together. We united in the letter; and, satisfied with its effect, never told what we had done; nor should I now tell it, except to give the example of Missouri in a case similar to that of Texas, and to show in my past conduct what may be my future conduct if troops are marched upon New Mexico. The Senator from Iowa, nephew of Dr. Linn, (Mr. Augustus Dodge,) was then a Delegate from Iowa, and knew all about our conduct, except the letter. I am for law, and order, and the support of the constituted authorities—for doing my own duty, in my own sphere, and leaving it to the Executive and the Judiciary to do theirs in their spheres.

I return to my motion—the motion to strike out the committee's line, which begins twenty miles above El Paso, and to insert the one which I propose, and which begins three hundred miles below that point. If the line I propose is adopted, we shall save all New Mexico, get the surplus territory to which Texas has a rightful claim, and have a justifiable cause for paying her a good sum of money. If the committee's line is adopted there will be no justification for paying Texas a cent; and upon the question of these two lines, naked and apart from all other questions, I now wish the vote of the Senate, and ask the yeas and nays.

The yeas and nays were ordered.

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SPEECH

OF

MR. SMITH, OF CONN.,

ON

THE BILL "TO ADMIT CALIFORNIA INTO THE UNION—TO ESTABLISH TERRITORIAL GOVERNMENTS FOR UTAH AND NEW MEXICO, MAKING PROPOSALS TO TEXAS FOR THE ESTABLISHMENT OF THE WESTERN AND NORTHERN BOUNDARIES;"

SHOWING

The responsibilities of the late Administration on account of the acquisitions which were the result of our recent war with Mexico—the entire harmony of the elements on which the prosperity of the different sections of the Union depend—the impracticability of maintaining an equilibrium between the free States and slave States, and how useless such equilibrium, if attainable, would be to the latter—the inconsiderable importance of the various slavery questions which, during the last few years, have made so much disturbance in and out of Congress—the legal, social, and physical obstacles to the introduction of slavery into our newly acquired territories, and the certainty that such territories will ultimately be admitted into the Union as free States, whether "the proviso" be or be not adopted, and setting forth the objections to the scheme of compromise and adjustment proposed by the aforesaid bill, and urging considerations to evince the superiority of the method of treating these subjects recommended by President TAYLOR.

DELIVERED IN THE SENATE OF THE UNITED STATES,
JULY 8, 1850.

WASHINGTON.
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1850.

SPEECH.

The order of the day (the bill to admit California into the Union) being called—

Mr. SMITH rose and said:

Mr. PRESIDENT: I do not know that I can obtain the ear of the Senate, at this advanced period of the discussion, for such remarks as I propose to submit on the present occasion. I shall feel, however, highly gratified if honorable members will accord their attention to some suggestions which have not hitherto been submitted to the body, and which, in my judgment, have an important bearing on the questions in controversy.

It is well known that the subjects comprised in this bill, and other kindred topics, have been under consideration for nearly six long months, and have undergone an examination which, in point of minuteness and extent, is unexampled in the history of Congress. They were produced originally in the form of certain declaratory resolutions, submitted early in the session by the honorable Senator from Kentucky, (Mr. CLAY,) and have since been reproduced by the Select Committee of Thirteen in and by the provisions of the pending bill. I have remained during this protracted debate hitherto entirely silent, unless a few remarks which I submitted the other day, in opposition to the introduction of unnecessary and irrelevant topics, may be deemed an exception. Under such circumstances, I trust I shall be indulged in occupying a brief portion of the time of the Senate, to present, as I intend to do, views differing essentially from those which have been urged on the body by most of my friends from the free States.

I became, Mr. President, as you will recollect, a member of the House of Representatives in the fall of the year 1839, and remained such, with the exception of an interval of two years, until I took my seat in this chamber in March, 1849. I have no recollection that, during the considerable period of my being a member of the House, I addressed myself to that body on any question arising out of the ever-recurring and troublesome subject of slavery. I contented myself with responding, in conformity with Scripture injunction, "yea, yea," or "nay, nay," to a vast variety of propositions in this connexion, being of the opinion that, in relation to all matters of unnecessary agitation, "whatsoever is more than these cometh of evil." This course has exposed me to much misconstruction and misrepresentation, particularly at the South, where I have been held up as entertaining views hostile and offensive to that section. But an examination of the record will evince that I have done no more than reflect, in a reasonable and a moderate degree, the predominating sentiments of my constituents and section of the Union. I have not been an agitator on the subject of slavery, nor do I intend to be, though I am free to confess that I cannot regard the institution with complacency.

If, then, there has been, during the last ten years, much disturbance in Congress on this subject, I am not responsible. If the harmony of our public councils has been interrupted, and if the public business has been from time to time obstructed and delayed, the fault is none of mine. If the affections of the people of different sections of the Union have been estranged from each other, and if the public mind has been, and is, more or less irritated, the blame must rest elsewhere than with me.

My course, then, having been heretofore, as it will be hereafter, on this and other kindred subjects, that of moderation and reason, I am prepared to approach the examination of the questions before us in a proper spirit, and hope to give them a just and an equitable consideration.

It is not to be doubted but that Congress and the country are involved in considerable difficulties and embarrassments, by reason of the acquisitions which were the result of our recent war with Mexico. The dangers arising from this cause have, in my judgment, been greatly exaggerated. Many honorable members have expressed an apprehension that we might be involved in some serious convulsion, and some have even looked to the possibility of a dissolution of the Union. I have myself felt very little alarm on this subject. There is in the country a strong and all-pervading attachment to the Union, which cannot be weakened, much less destroyed, but by serious grievances, deeply affecting great and essential interests—grievances so enormous that men will fly to any extreme rather than submit to them.

But, nevertheless, there are very considerable evils now present with us. Much irritation exists in the public mind, and a spirit of sectional alienation has spread more or less over the country. It is desirable to apply to the case the best remedy in our power, to the end that harmony may be restored to our national councils, and peace and good will to the entire Republic.

The difficulties that attend an adjustment of this controversy are great. So it ever is with sectional questions; but now they are aggravated, as we have had a heated contest: passions and prejudices are aroused, and misconception distorts the public mind in all quarters of the Union.

Hence we may well feel a sincere distrust as to the soundness of any opinions we may express. In indicating what course, in my judgment, should be pursued, I shall do so with a proper deference for the views of others.

But it seems to me there stands out, in front of the whole subject, a question of responsibility to which some attention should be paid. How is it that the country has been placed in this situation? Why has so much disorder been intruded into our public councils? Why has one section of the

Union been arrayed against another? And why are so many apprehensions expressed that serious calamities are lowering over us?

It is believed that all these difficulties are the legitimate fruits of the policy of the late Administration. By many of our leading public men they were anticipated and predicted. I cannot develop that policy in full. I do not propose to consider the remote causes of these embarrassments—the annexation of Texas, and the measures which led to the recent war with Mexico. But I have something to say about the course of the late Executive, in converting that which should have been, on his own principles, a defensive war, into a war of invasion, acquisition, and conquest; and more, on his successful demand from Mexico of a vast expanse of territory, over and above the satisfaction of any just claim, in our favor, against that Republic.

The late President, in his annual message to the 30th Congress, (1st session,) took the ground that the only indemnity which it was in the power of Mexico to make, in satisfaction of our claims, was "a cession to the United States of a portion of her territory." "Mexico," he said, "has no money to pay, and no other means to make the required indemnity. If we refuse this, we can obtain nothing else. To reject indemnity, by refusing to accept a cession of territory, would be to abandon all our just demands, and to wage the war, bearing all its expenses, without a purpose or definite object." And then, again, he added: "The doctrine of no territory is the doctrine of no indemnity, and, if sanctioned, would be a public acknowledgment that our country was wrong, and that the war declared by Congress, with extraordinary unanimity, was unjust and should be abandoned—an admission unfounded in fact, and derogatory to the national character."

I have nothing to say at present on the correctness of the assertion that indemnity could not be obtained in any other form than by cession of territory, nor on the wisdom (even if the fact be so) of taking territory with the certainty of its becoming the source of serious dissensions among ourselves; but it is proper to ask why the late President did not restrict himself to the principle of indemnity, and to consider what consequences have followed a departure from that principle.

What, then, were our claims against Mexico? and what amount or extent of territory was required to satisfy them? These consisted of—

1. Certain claims which had been liquidated and ascertained by a joint commission and umpire, under and by virtue of a convention between the two Governments, on which was due $2,098,024 77, (a part having been paid;) and

2. Unliquidated claims, which the joint commission and umpire could not adjust within the time prescribed by the convention, and which, by the treaty of Guadalupe Hidalgo, are estimated at $3,250,000—making, in all, the sum of $5,348,024 77.

In his communications to Congress, the late Executive insisted that we were entitled to not only payment of these claims, but also to an indemnity for the expenses of the war, on the ground that it had been wantonly commenced by Mexico. Thus, in his annual message to Congress in December, 1846, he says that—

"The war has been carried into the enemy's country, and will be vigorously prosecuted there, with a view to obtain an honorable peace, and thereby secure *ample indemnity for the expenses of the war*, as well as our much-injured citizens, who held large pecuniary demands against Mexico."

And again, in his annual message, December, 1847, he says:

"Since the liberal proposition of the United States was authorized to be made in April last, large expenditures have been incurred, and the precious blood of many of our patriotic fellow-citizens has been shed in the prosecution of the war. This consideration, and the obstinate perseverance of Mexico in protracting the war, *must influence the terms of peace which it may be deemed proper hereafter to accept.*"

In the first instance, the Executive says, in effect, that he should insist on an ample indemnity for the expenses of the war; but in the last he lowers his tone, and merely suggests that the consideration of treasure and blood "*must influence the terms of peace which it might be deemed proper thereafter to accept.*" But it will be found, on examination of the documents, that the late Administration totally abandoned this claim. Not one word is said on the subject in the instructions of Mr. Buchanan to Mr. Commissioner Trist, nor in the *projêt* of a treaty which that gentleman took with him to Mexico. (Vide Executive Doc's, House of Reps., 1st sess. 30th Cong., vol. 8, Doc. No. 69, pp. 43 and 47.) It also appears, from the 12th article of the treaty of Guadalupe Hidalgo, that the United States undertook to pay the liquidated and unliquidated claims of our own citizens, "in consideration of the extension acquired by the boundaries of the United States, as defined in the 5th article" of that treaty, and not in consideration of the expenditure of treasure and of blood in prosecuting the war. These elements constituted no part of the motive or consideration inducing the establishment of the Rio Grande up to the south line of New Mexico as the boundary between the two Republics, and the cession of that province and of Upper California to the United States; so that the only claims sought to be indemnified by the treaty were those already indicated, and which amounted to the sum of $5,348,024 77.

Now, Mr. President, it distinctly appears that the late Executive demanded and received from Mexico a much greater extent of territory than we were entitled to on the principle of indemnity. He made the cession of such territory an ultimatum; for he says, in his annual message, first session of 30th Congress, that—

"The Commissioner of the United States was authorized to agree to the establishment of the Rio Grande as the boundary, from its entrance into the Gulf to its intersection with the southern boundary of New Mexico, in north latitude about 32°, and to obtain a cession to the United States of the provinces of New Mexico and the Californias, and the privilege of a right of way across the isthmus of Tehuantepec. The boundary of the Rio Grande and the cession to the United States of New Mexico and Upper California constituted an *ultimatum* which our commissioner was under no circumstances to yield."

Thus it appears that we demanded of Mexico the cession of the two provinces without the slightest reference to their value, and without troubling ourselves to inquire whether they did or did not exceed a just indemnity. By the treaty of Guadalupe Hidalgo, it is substantially acknowledged that we had overrun the States and provinces of Mexico—had assaulted her fortresses, captured her cities, and slain her people, to force her to sell us a vast expanse of territory, which we had no right to demand on our own principles.

The establishment of the Rio Grande as the boundary up to New Mexico, and the cession of that province and Upper California, were made in consideration of—

1. Payment by us of the liquidated debt due our own citizens.....	$2,093,024 77
2. The unliquidated debt, which it was supposed would amount to	3,250,000 00
3. To Mexico, as the difference between the claims above mentioned and the value of the territory ceded	15,000,000 00
Total	$20,348,024 77

It may be useful to inquire what we paid this money for. It is apparent that the late administration could not have had in view the country between the Nueces and the Rio Grande, as it was there, according to Mr. Polk, that "American blood was shed on American soil" Did we pay the amount for Upper California and New Mexico, or for the former and so much of the latter as is situated on the west side of the Rio Grande? It is now said that East New Mexico in fact belonged to Texas; if so, then we acquired by the treaty Upper California, and little else. New Mexico west of the Rio Grande is but an inconsiderable portion of the whole province, and is almost worthless. No doubt Mexico supposed she was ceding to us the whole of New Mexico, and the United States that they were purchasing the whole. The language of the treaty is conclusive as to the views of Mexico, and the instructions to Mr. Trist (already referred to) as to the views of Mr. Polk and his Cabinet. He (Mr. T.) was required to insist on "the Rio Grande as the boundary, from its entrance into the Gulf to its intersection with the southern boundary of New Mexico, in north latitude about 32 deg., *and to obtain a cession* TO THE UNITED STATES *of the provinces of New Mexico and the Californias.*"

I shall assume, then, that our purchase included the whole of both provinces; and a dear purchase it was, too—for we paid for Louisiana and Florida only $20,000,000. From the former we have already carved out four large States, with territory enough for three or four more. It will be recollected that nothing was known of the mineral resources of California until some time after the treaty of Guadalupe Hidalgo was negotiated. Thus it appears that we paid $15,000,000 for a great excess of territory over a full indemnity. Why did not Mr. Polk content himself with the parallel of 36° 30'? This would have given us the harbor of San Francisco and nearly all the gold-producing regions of California. Probably that line, according to the estimate put on the whole country by the treaty, would have considerably exceeded the claims of our citizens. But if we were obliged, as Mr. Polk insisted, to take territory in satisfaction of such claims, we had a right to insist on convenient boundaries. The parallel of 36° 30' would have been a convenient boundary for the United States—it would have avoided agitation on the slavery question. But Mr. Polk was ambitious of large and splendid acquisitions, and therefore made the cession of both provinces an ultimatum. Those views of policy were unhappily realized; and now we are harrassed by a controversy with Texas on her claim to New Mexico east of the Rio Grande, which she threatens to assert by the sword, and by much excitement and irritation, pervading the whole country on the subject of slavery generally, and particularly on the question whether our new possessions shall or shall not be open to its introduction. If these complicated differences and disputes do not result in serious convulsions, it is certain that they are producing, and I fear will continue to produce, great disturbance in and out of Congress.

It should be recollected that the late Executive was warned emphatically in advance of what would be the consequences of this policy. The issue was distinctly made up before the close of the war with Mexico between the different States and sections of the Union. I desire to refer the Senate to resolutions on this subject from Vermont, (Executive Documents, House of Representatives, 2d session 29th Congress, 4th vol., No. 81;) New Hampshire, (Senate Documents, second session 29th Congress, 3d vol., Nos. 154 and 155;) Massachusetts, (do., No. 219;) New York, (do., No. 122;) New Jersey, (do., No. 153;) Pennsylvania, (do., No. 149;) Rhode Island, (Executive Documents, House of Representatives, 2d session 29th Congress, 4th vol., No. 85;) Michigan, (Executive Documents, House of Representatives, 2d session 29th Congress, 3d vol., No. 207;) Connecticut, (Senate Miscellaneous, 1st session 30th Congress, No. 15;) Ohio, (House Miscellaneous, 1st sess., 30th Congress, No. 84; Wisconsin, (do., No 96;) Missouri, (do., No. 2;) Texas, (do., No. 27;) and Alabama, (Senate, Miscellaneous, 1st session 30th Congress, No. 85.)

To illustrate the character of these resolutions, I would state that Missouri gave notice that she should insist on the application of the Missouri compromise, so called, "to the territory then belonging to the United States, or which might thereafter be acquired either by purchase, treaty, or conquest;" and Texas that she should claim that "any territory which might be permanently held by the United States, belonged equally to all the States;" and that "any attempt by the Federal Government to prevent the citizens of the slaveholding States from taking their property, of whatever description, with them, in emigrating to and settling on said acquired territory, would be a violation of the Constitution, an insult to the Southern people, and an outrage on the sacred rights and privileges which it is the object of all good government to protect." On the other hand, Vermont put her opposition to the contemplated acquisition distinctly on the ground that such policy would be inconsistent with "the harmony, welfare, and prosperity of the Union;" and Rhode Island, after expressing sentiments of

liberal indulgence towards slavery, as it existed in the Southern States, "which the errors of past ages have transmitted to them," protested "against the acquisition of territory by conquest or otherwise, beyond the then limits of the United States, for the purpose of establishing therein slaveholding States as deranging the balance of political power once so happily established between our confederated communities, and as manifestly in violation of the spirit and intent of the Constitution."

The Senate cannot fail to be struck by the inconsisteney presented by the different positions assumed by Missouri and Texas; for if Congress has no power "to prevent the citizens of the slaveholding States from taking their property, of whatever description, with them," to the territories about to be acquired, however, could it be competent for that body to apply to such territories the Missouri compromise? The Senate will also be impressed by the great liberality displayed by Vermont and Rhode Island. Those patriotic States did not desire territory for the sake of being converted into free States, but objected utterly to all acquisition as inconsistent with the harmony, welfare, and prosperity of the Union." Such were the sentiments of the opposition to the late administration in all the free States; but, on the contrary, the Northern democracy were for acquisition, and, with few exceptions, for utterly excluding slavery. The Hon. Preston King, in some remarks submitted to the House of Representatives on the 5th of January, 1847, (Cong. Globe, 2d sess. 29th Con., p. 144,) expressed truly the views of the Northern supporters of the late administration. He said:

"The time has come when this Republic should declare by law that it will not be an instrument to the extension of slavery on the continent of America. That the boundaries, institutions, and principles of our Republic must and will extend, there can be no doubt. The present war with Mexico must result in an extension of the territory of the United States. A peace honorable to the United States cannot be made without indemnity from Mexico in territory. * * * * * Shall the territory now free, which shall come to our jurisdiction, be free territory, open to settlement by the laboring man of the free States, or shall it be slave territory given up to slave labor? One or other it must be; it cannot be both. The labor of the free white man and woman, and of their children, cannot and will not eat and drink, and lie down, and rise up with the black labor of slaves. Free white labor will not be degraded by such association. If slavery is not excluded by law, the presence of the slave will exclude the laboring white man. * * * * * If Congress shall refuse at this session to make this free principle a law, the arms of the Republic will conquer free territory, upon which slavery will be planted. I desire the adoption of the free principle, because I believe it to be just to the free States, just to the white men who fight our battles, and who constitute the strength of the country in peace or war; because I believe it to be consistent with the principles of our Government, and because I believe it will tend to improve the condition and character of labor in the whole country. And who will deny that, in a republic, it should be one of the chief objects of Government to elevate and dignify the condition and character of labor. Unless this measure should be brought before the House by a committee, or in some other way, I shall continue to urge the bill I proposed yesterday upon the attention of the House."

Very different were the views of my political friends from both sections of the Union. They protested against acquisitions, in any and every form. They insisted that we had already limits ample enough to accommodate and sustain any population we could have for centuries to come. They pointed to the vast expanse of vacant lands which we had on the Atlantic slope and in the Mississippi valley, and indulged dismal forebodings of the consequences which would result from the insane policy of the late administration. In this respect, there was no difference between a Whig from the North and a Whig from the South, whether he occupied a seat in this or the other wing of the Capitol. The Hon Caleb B. Smith, of Indiana, in a speech delivered in the House of Representatives on the 6th of January, 1847, said:

"There is connected with this subject another question, involving in its decision questions of the most fearful import. * * * Those who urge that we can amicably apportion these Mexican provinces, making a portion of them slave States and a portion free States, deceive themselves; "they cry peace, peace, when there is no peace." * * Let the territory be once acquired, and the question will before us with all its force. * * * It will be a convulsion which will shake the pillars of this Government to their foundations; and we may find too late, amidst the scattered fragments of our Union, that we have raised a spirit which we have no power to control."—(Cong. Globe, Appendix, pp. 229, 232.)

The Hon. Mr. Ashmun, of Massachusetts, in a speech delivered in the same body February 4, 1847, said:

"They (the people of the North) are willing and anxious to stand by the Constitution as given to us by our fathers; and, however much they may regret some of what are called its compromises, they will stand by it. But when you set on foot a series of measures which have for their object and end an extension of slavery as an element of political power—when you attempt to bring in foreign territory, and give it a slave representation in the Congress of the Union, so that the interests of the free States are to be outvoted and overpowered here, they would be false to all their duty if they did not resist at every step. * * * Let me say to my Southern friends, in all frankness, that we of the North want no more territory, whether acquired by purchase or conquered by war."—(Cong. Globe, Appendix, 2d session 29th Congress, pp. 289, 293.)

The Hon. Mr. Winthrop, of Massachusetts, in a speech delivered in the same body February 22, 1847, said:

"It is plain that there are two parties in the Northern States. Both of them are opposed, uncompromisingly opposed, as I hope and believe, to the extension of slavery. One of them, however, and that the party of the present Administration, are for the widest extension of territory, subject to the anti-slavery proviso. The other of them, and that the party to which I have the honor to belong, are,

as I believe, content with the Union as it is, desire no annexation of new States, and are utterly opposed to the prosecution of war for any purpose of dismembering Mexico. Between these two parties in the free States the South holds the balance of power. It may always hold it. If now, therefore, it will join in putting an end to this war, and in arresting the march of conquest upon which our armies have entered, the limits of the Republic, as well as the limits of slavery, may be finally established."—Cong. Globe, Appendix, 2d session 29th Congress, pp. 406, 408.)

In a speech in the House, December 6, 1846, the Hon. Mr. Gentry, of Tennessee, said:

"All the dangers growing out of this question of slavery which we have met and overcome heretofore, are as nothing compared with those which will arise when that question shall come up as the consequence of Mr. Polk's conques s and annexation. * * * The President is driving the ship of state into a most stormy and dangerous sea; and if Congress fails to act in the lofty spirit of patriotism which the occasion demands—if it fails to assert the constitutional rights and perform the constitutional duties which properly belong and attach to the legislative branch of the Government, by putting a limit to Executive discretion in the further prosecution of this war with Mexico—in my opinion the day is not distant when it will require all the virtue, intelligence, and patriotism of the country to preserve the Union and save the public liberty."—(Cong. Globe, Appendix, 2d sess. 29th Cong., pp. 56, 62.)

In a speech in the House, February 22, 1847, Mr. Pendleton, of Virginia, said:

"The Democratic party, [of the North,] with a very few exceptions, go at this moment for territorial acquisition, to be made into free States, on our Southwestern border; and, to carry out this purpose, they put to hazard the Union itself

"The Whigs, on the other hand, every man of them, say to us of the South: 'We want no more territory, free or slave; we have enough, and more than enough; we have already discord and trouble enough. But if you will not be warned—if you will go on in this wild career of annexation—we tell you now, that whilst we leave to you the management of your domestic institutions as seems best to you, whenever these new territories do come in, public sentiment in our end of the Union will force all parties to insist upon conditions which will enforce submission upon you, or rend our Union into atoms.' "—(Cong. Globe, Appendix, 2d sess. 29th Cong., pp. 409, 414.)

Mr. President, I could produce extracts from the debates in this chamber during the second session of the 29th and the first session of the 30th Congress, containing sentiments from my political friends of the same character; but I shall content myself with submitting a paragraph from the speech of my honorable and distinguished friend from Georgia, (Mr. Berrien,) to be found in his speech of the 5th of February, 1847, as follows:

"Consider, I beseech you, what are the consequences to which this lust for the acquisition of territory is leading you. When you have acquired those territories, how will you surmount the difficulties which will necessarily attend their possession? You cannot, consistently with the Constitution, govern them as subject provinces; you cannot, consistently with what you owe to yourselves, incorporate a mongrel race, a half civilized people, into the Federal Union. But suppose you could: then comes that fearful question, which more than any other menaces the duration, the permanency of the Union. Do you believe that any treaty which may be negotiated with Mexico, by which territory may be acquired, can receive the sanction of this body, leaving the question of slavery open—providing for its allowance or excluding it? I appeal to American Senators, from whatever portion of the Union, will you slumber on your posts while this distracting question is thrust into our council chamber? My appeal to Southern Senators is yet more direct and pressing. I ask if their duty to their constituents does not imperatively demand that they should withhold their assent to any treaty which does not protect, by express stipulations, the domestic institutions of those whom they represent? Consider the consequences of our infidelity. If, under the influence of whatever motive, we should acquiesce in the acquisition of territory without such a stipulation as would secure the interests of our constituents, the inevitable consequence would be their exclusion from all participation in the territory thus acquired—inevitably, with the certainty of fate, this exclusion would follow."—(Cong. Globe, Appendix, 2d sess. 29th Cong., pp. 296, 301.)

But, notwithstanding this urgent appeal, both Northern and Southern Democratic Senators concurred in ratifying the treaty negotiated by Mr. Trist, with a cession of a large expanse of territory, which left "the question of slavery open," and has involved us in our present difficulties and dangers. The honorable Senator (Mr. Berrien) having, with a prescience that reflects the highest credit on him, all these evils in full view, voted against the treaty. I sympathized with him in feeling and opinion at the time; and had I been a member of the body, with the power of giving a thousand votes, every one of them would have been cast against it. Why did not the Senate restrict Mr. Polk to indemnity merely, or at least restrain his ambition for territory to the parallel of 36 deg. 30 min? Millions may yet rue the rashness and folly of this procedure.

Before dismissing the anticipations so fully expressed by those who stood up so manfully in opposition to the policy of the late Administration, I hope I shall be pardoned for bringing forward some of my own. In some remarks—which I submitted in the House of Representatives on the 2d of March, 1848—the treaty being then before the Senate—I observed that "the policy of this Administration must inevitably overthrow the Missouri Compromise, (so called.) I say nothing about the propriety of adopting that Compromise originally. I may not have great reverence for it; but one thing is certain, it has hitherto constituted a broad and deep line, regulating the policy of this Government. A large majority of the American people have manifested a determination to stand by it. But how can the territory to be acquired be divided by the parallel of 36 deg. 30 min. into free States and slave States? How can New Mexico and California be so divided? The habitable portions of those countries lie across that line, and the whole of each must be associated together in a State. There is not, in fact, enough of the one or the other to make a State. There can never be population enough to

permit a division of either, and therefore we are certain to have thrown among us the firebrand of the slavery question. This may seem a light matter to many honorable gentlemen; but I must confess that the civil dissensions and the sectional alienations which these acquisitions are likely to arouse, are amongst my strongest objections to them. I go for the Union as it is—not for a mere Union constrained by brute force; but a Union of mutual confidence and good will, all respecting 'the compromises of the Constitution,' and all co-operating in one common effort to work out the problem of a glorious destiny."

At the time these remarks were made, nothing was known of gold in California, the discovery of which has made a vast difference in the resources of that country. But, nevertheless, my prediction that a State organized on the Pacific would be found to lie across the Missouri Compromise line has been realized. California is now here with a republican constitution, seeking admission into our Union, with limits properly comprehending the whole of the coast of that territory, and we have, as I said we should have, "thrown among us the firebrand of the slavery question." The prediction will be found hereafter to have been equally true in relation to the residue of California and of New Mexico. Indeed, this bill proposes the organization of territorial governments for Utah and New Mexico, with limits for each which will place them a cross the parallel of 36 deg. 30 min. This is certainly true of New Mexico, and I believe it is so of Utah, though I am not quite certain that the southern rim of the great basin extends below that parallel. If, then, the Missouri Compromise line has been overthrown, it is the policy of Mr. Polk which has done it. The geographical position and the physical character of the countries acquired render this inevitable.

And what particularly aggravates the enormity of the case is the fact that the treaty was ratified without its being possible for the Senate to pass on the *intrinsic merits* of these acquisitions. It is believed there could not have been obtained in this chamber even a majority for them *per se*, much less a majority of two-thirds. But honorable Senators were compelled to choose between a deplorable war and a bad treaty. Many believed the evils of the treaty to be much less than those of the war, and voted for the former, though utterly opposed to the policy of acquisition, at least to the extent it was carried.

We are now prepared to advert to the language which so often flowed from the pen of our late Chief Magistrate, (Mr. Polk,) that we could not close the war with honor without "indemnity for the past, and security for the future." But did honor or sound policy require him, in the name of "indemnity for the past," to demand all the territories comprised in the treaty? and had he, in seeking in this form "security for the future," a reference to the internal tranquility of the country? Let the present, with all its dismal forebodings of evil to result from these very acquisitions, answer.

But, to a just appreciation of the entire subject, it is necessary to inquire, at what expense of treasure and of blood have we obtained these Territories? If we have taken a viper to our bosom, which is stinging our very vitals, what sacrifices did we make to procure it? If we have chased down and seized a wolf by the ears, which we can neither hold nor let go, what were the costs of the pursuit?

To ascertain the cost of these acquisitions, it is necessary to bring into view not only the amount stipulated to be paid by the treaty, but the vast expenditures of the war itself. I invite attention to the following elements, from which a satisfactory result can be deduced:

1. It appears from the annual report of the Secretary of the Treasury, (Ex. Docs. 1st session 29th Congress, 2d vol. Doc. No. 6, pp. 1 and 25,) that on the 1st of July, 1845, the balance in the Treasury was	$7,658,306 22
2. It also appears by the annual report of the present Secretary to this Congress, (Doc. No. 4, pp. 5 and 6,) that the addition to the National debt, by reason of the late war with Mexico, was . . .	43,508,178 55
3. The excess of the revenues of the Government during Mr. Polk's Administration—that is to say, from the 1st of July, 1845, to the 1st of July 1849—over and above the ordinary expenses of the Government for the same period, was	36,826,938 18
4. The whole number of land warrants issued and issuable to soldiers engaged in the late war, as bounties, as estimated by J. L. Edwards, esq., Commissioner of the Pension Office, (vide report of the Secretary of the Treasury to Congress at this session,) is 90,000, which, at 160 acres each, make 14,400,000 acres, and, at $1 25 per acre, amount to	18,000,000 00
5. Paid to such soldiers as commutation money, in place of land, pursuant to an act of Congress, (which I have ascertained on inquiry at the Treasury)	261,375 00
6. Paid and to be paid to our own citizens and to Mexico, under the treaty of Guadalupe Hidalgo, as already stated	20,348,026 77
	$126,222,817 47
From this should be deducted the amount in the Treasury on the 1st July, 1849	2,184,463 82
Balance	$124,038,354 65

To this is to be added several other items, which I leave indefinite, as I have no means of ascertaining their precise amount:

"7. The amount and value of the arms, ammunition, and munitions used and consumed in the war; including the deterioration of such as were brought back from Mexico, the same being in our arsenals at the time war broke out.

"8. Ditto in the naval service, including shipwrecks and the deterioration of our public ships and their armaments.

"9. The increase of our pension list.

"10. Payments made in a regular course of administration since the 30th of June, 1849, which are known to have been very considerable.

"11. The many private claims arising out of this war, some of which are now pending before Congress, and others to be presented from time to for the next quarter of a century.

"12. The expenses which must be incurred to execute the 11th article of the treaty of Guadalupe Hidalgo, which imposes on us an obligation "to forcibly restrain the savage tribes," brought under our

jurisdiction by the treaty, from making "incursions into Mexico," and to rescue from said tribes Mexican "captives, and to return them to their own country."

"13. The additions which have been or will hereafter be made to our army and navy, in consequence of said acquisitions, for other reasons than the execution of the 11th article."

Mr. President, explanations as to some of these items will be necessary to a proper understanding of the subject.

With respect to the third item, I would observe that it is impossible to ascertain, by an examination of the accounts, what the excess of the revenues over the expenditures of the Government during the late Administration would have been, had the country remained at peace, for the reason that the ordinary expenditures are so mixed up with those occasioned by the war, that it is impossible to separate the one from the other. I, therefore, in the first place, ascertain what the revenues were for four financial years, viz., from the 30th of June, 1845, to the 1st of July, 1849, (exclusive of loans and treasury notes,) and find them to have been as follows:

For the year ending the 30th of June, 1846 - - - - - - - - - -	$29,499,247 06	
For the year ending the 30th of June, 1847 - - - - - - - - - -	26,346,790 47	
For the year ending the 30th of June, 1848 - - - - - - - - - -	35,436,750 19	
For the year ending the 30th of June, 1849 - - - - - - - - - -	31,064,347 50	
		122,347,135 62
To ascertain what would have been the expenditures had it not been for the Mexican war, I take those of the financial year ending the 30th of June, 1845, as the standard, which, exclusive of payments towards the national debt, were $21,380,049 36; which being multiplied by four, gives an amount for the whole of Mr. Polk's Administration of - - - - - - - - - - - - - - - -		85,520,197 44
Excess - - - - - - - - - -		$36,826,938 18

It is believed that twenty-one or twenty-two millions would have been ample, had the peace of the country been maintained; so that this large excess, with other items mentioned, was expended in the war with Mexico.

To enable me to make an approximate estimate of the 7th, 8th, 9th, and 10th items, would require more investigation at the Departments than I have been able to make. The pensions will be an incumbrance on the treasury for many years, and the equivalent in ready money can only be ascertained by calculations on the principles of life insurance, which I am not competent to make. To enable the Senate to form a just estimate of the burdens imposed by the 12th and 13th items, I invite attention to the following statement:

The expenditures for the army for the fiscal year ending the 30th of June, 1850, were	$9,605,094 70	
For the fiscal year ending the 30th of June, 1851, they are estimated at - -	8,296,183 44	
		17,901,278 14
The same expenditures for the fiscal year ending the 30th of June, 1845 - - -	3,155,027 30	
For the fiscal year ending the 30th of June, 1846 - - - - - - - -	3,947,595 25	
		7,102,622 55
Difference - - - - - - - -		$10,798,655 59

The last three quarters of the year 1850, and the whole of 1851, were and must be taken from the estimates; also the last three quarters of 1846, for the reason that the war broke out during that fiscal year; and there is no other way of ascertaining the expenses of the army for that period on the peace establishment. Thus it appears that there has been added to the burdens of the country, under the head of army expenditures, since the accession of Mr. Polk, the enormous sum of $5,399,327 79 per annum. I am sensible that this, however, is not all to be charged over to the account of the 11th article of the treaty of Guadalupe Hidalgo, and the acquisitions which we have made by that treaty. A considerable part of this amount is due to Oregon. But if we suppose that our new possessions have added only $1,500,000 per annum, under this head, it will be sufficiently startling. The equivalent in ready money is $25,000,000.

As a further illustration of the pecuniary sacrifices which we have made in this war, I invite the attention of the Senate to the augmentation of interest from this cause, which we are compelled to pay on our national debt:

It appears from the last report of the Secretary of the Treasury that the interest paid on our whole debt for the year ending the 30th of June, 1849, amounted to - - - - - - - - - -	$3,565,558 04
Also from the report of the Secretary at the first session of the 29th Congress, that such interest amounted to -	1,040,032 02
Difference - - - - - - - -	$2,525,546 02

Mr. President, I have already shown, by the definite items adverted to, that we have paid, on account of the war and the territories transferred to us by the treaty, the very large aggregate of $124,038,353 65. But it seems it is not enough for us to purchase New Mexico once: we are now required to buy of Texas so much thereof as is situated on the east side of the Rio Grande. Such is one of the propositions of this bill. With what sum the blank in the fourth paragraph of the last section is to be filled I know not: but it is whispered in this chamber that the Committee contemplate proposing $10,000,000, which will carry the aforesaid aggregate up to $134,038,353 65. If, then, we bring into view the indefinite items, and place on them even a low estimate, we shall have an expenditure made and to be made, on account of the war and for these Territories, of not less than $150,000,000!

One hundred and fifty millions! How prodigal is war of treasure! How infinitely less costly and more beneficent are the arts of peace! How much good could have been effected for the American people with this enormous sum! How many harbors and rivers improved, and how many railroads

constructed! Even now the locomotive might have been darting across this continent, from the Mississippi to the mouth of the Columbia, and inestimable benefits conferred on the present generation and on posterity.

But, Mr. President, I have a subject to present, in connexion with the war, infinitely more interesting. I refer to the great number of precious lives sacrificed, and the vast quantity of blood poured out in its prosecution. Here I bring into view the following statistics:

It appears from Executive Document (House of Representatives, present Congress) No. 24—

1. That there were killed in battle and accidentally, and died of wounds in the war, of the old establishment, additional regiments, marines, and volunteer force, officers and men	1,912
2. That the ordinary deaths, of all descriptions of force, amounted to	10,966
Deaths returned	12,878
3. That there were discharged for disability 9,749, most of whom, it is believed, died either in Mexico, on their way home, or after their arrival; but, not to make an over estimate, say one-half, which is	4,874
4. There were mustered into service, (officers and men,)	73,260
Mustered out of service	50,573
	22,687
Returned as discharged, dead, or deserted	20,072
The difference (supposed to be dead) is	2,615
5. It is well known that of those mustered out of service many have died of disease contracted in Mexico. The whole number (as already stated) was 50,573; if we suppose a loss of 10 per cent., (which is moderate,) we have in this item	5,114
	25,481

To prove that this is not an over-estimate, I invite attention to the following facts:

1. It is stated in the above named document (p. 4) that "the discharges on account of disease or disability, and the number of ordinary deaths reported to the adjutant general's office," * * * "must be much less than the actual loss, owing to the missing muster-rolls, and returns which could never be obtained, although repeatedly written for to commanders of regiments and corps."

2. It appears, also, from the same document, that no less than 6,725 deserted during this war, many of whom doubtless perished; but as these poor wretches abandoned the flag of their country, I care not to bring them into the account.

3. There must also have been a considerable loss of life among the non-combatants and camp-followers, of whom great numbers follow in the train of every army.

4. The case of the first regiment of New York volunteers has recently undergone investigation in he assembly of that State; and a report has been made by H. J. Raymond, esq., from which I make he following extract:

"The only regiment that was commissioned in this State, and sent direct to the scene of war, was that of the first regiment of New York volunteers, under the command of Col. Ward B. Burnett. The officers received their commissions, and, together with the men, were mustered into service in January, 1847, and during the same month embarked as follows: Companies C, D, and E, in the ship Catherine, under the command of Major James C. Burnham; companies A and G, in the barque Isabel, under Captain Charles H. Shaw; companies H, F, and part of K, in the brig Empire, under Col. Ward B. Burnett; company I and balance of K, in the barque Jubilee, under Captain Morton Fairchild, and company B, under Lieut. Col. Baxter.

"The whole number that departed originally for the seat of war was 805.

Of these there died in Mexico, or were killed in battle	227
Discharged from disabilities, wounds, sickness, &c.	226
Missing and deserted	35
Died since their return	56
Known to be living	106
Leaving wholly unaccounted for	155
Total	805

"Of those discharged in Mexico, as above stated, in number 226, very few have been heard of. It is supposed that most of them died, being sick when discharged."

If the New York regiment is a fair sample of other volunteer regiments, then I have greatly underrated the mortality of this war.

But this is not the whole loss by any means. By document No. 24, it appears that 2,075 officers and men were wounded in battle, and many of these are maimed, and can do nothing either for their families or the State. Besides, a vast proportion of those who returned from Mexico, and are still living, have their constitutions shattered or broken down, are oppressed with disease, and incapable of useful industry, and will, after being for a time a burden to their friends or society, go down to a premature grave. Mr. Raymond, in his report, speaking of the New York regiment, says:

"Of those known to be living, numbering 106, nearly all are broken down by disease, hardships, or wounds received in the campaign, and are unable to support themselves."

I am safe, therefore, in assuming that the Mexican war occasioned the sacrifice of not less than 25,000 lives! and among them some of the most lofty spirits ever bred to the profession of arms. Their names, their accomplishments, their generous impulses, and their deeds of noble daring, will find a place on the brightest pages of our country's history. And what shall we say of the many private soldiers who, though obscure, were devoted and brave to a fault—whose bodies, uncoffined, were shovelled under the earth, or whose bones whiten the fields of Mexico? What of the vast number of widows and orphans scattered over the land, who are left without a husband's or a father's hand to succor and sustain them, and who, amidst poverty and desolation, can only pour out unavailing tears for those they loved?

But this is not all. By the policy of the late Administration, territories have been acquired which

have become "the apple of discord" to the whole country. The peace of the country has been alarmingly disturbed; irremediable dissension and bitterness have been introduced into our national councils; a spirit of illiberal and mischievous sectionalism has been spread over the land; and the affections of the people of the North and South have been alienated to such an extent as to require the utmost prudence and discretion, in and out of Congress, to restore them to their pristine strength and vigor. Treasure and even blood are nothing in comparison with the harmony and cordial good will of these States. It is said by high authority that "it is better to live in the corner of a housetop than with a brawling woman and in a wide house." Our territories were wide before the recent acquisitions; but the policy of Mr. Polk and his cabinet has made them wider, and, in consequence, we have nothing but *brawling* on the negro question—brawling for two years—and when it is to end, Heaven only knows.

Have we obtained for such sacrifices any adequate equivalent? I do not propose to go into an examination of the value of these Territories. I shall have occasion hereafter to recur to the considerations appertaining to this subject, particularly so far as East California and New Mexico are concerned, in treating of the practicability of introducing slavery into those countries. In the mean time, I make the following remarks:

1. No doubt the acquisition of the harbor of San Francisco was quite desirable, in reference to the commerce of the Pacific; and this, as I have already shown, came within the scope of a just indemnity.

2. The mineral resources of California on the Pacific are, it must be admitted, very large; but I am among the number of those who have serious forebodings on this subject. I do not believe that gold-hunting is adapted to make good republican citizens. What we want for our people is steady employment, regular industry, and moderate gains. Agur's prayer, "give me neither poverty nor riches," is exactly adapted to our case. There never has been a nation hitherto that has stood the pursuit of the precious metals; they have degenerated and become truly wretched. But we are about to try a dread experiment—the effect of gold-hunting on the Anglo Saxon race. By an irresistible temptation, we take our people from their farms, their workshops, and their families, carry them over the Seirra Nevada, and precipitate them among the recesses of those mountains. How are they found there? Without Sabbaths, a preached gospel, churches, schools, and the humanizing influence of the family, and exposed to all the baleful temptations of the grog-shop and gaming-table! A part of the first generation who go there, with their habits well formed, and with sound morals thoroughly established, may be able to resist these temptations; but how will it be with their posterity? Will they not degenerate and become effeminate and corrupt? I greatly fear that this gold business will prove nothing but an unmitigated curse to the American people. But it is useless to dwell on this feature of the case, as gold makes an appeal to the human heart which is absolutely irresistible. I might as well undertake to beat back the cataract of Niagara with a feather, as to undertake to resist the popular impression on this subject.

But can it be said, in any proper sense, that we own all this gold? Have we exercised, or can we exercise, any dominion over it? Have we obtained one dollar of revenue from it? Have we been able to appropriate it even to the use and benefit of our own people? On the contrary, is it not notorious that every nation, kingdom, and tongue resort there, and take what they please? These inexhaustible riches belong rather to the whole world than to the United States of America. Possibly, when we get through quarrelling on the slavery question, it will be in our power to do something with them.

3. By the treaty of Guadalupe Hidalgo, we acquired the sovereignty of these countries; but we cannot exercise it. The ratifications of such treaty were exchanged at Queretaro on the 30th of May, 1848, and the treaty itself was proclaimed at Washington on the 4th of July following—over two years ago—and to this day we have not been able to exercise the power of governing it. The people owe to us the duty of allegiance, and we cannot fulfil the corresponding obligation of protecting life, liberty, and property. We are known to California by little else than the power of taxation.

Such are the sacrifices which we have made to obtain these Territories—such the errors of the past, and the responsibilities of the late administration.

But we have made these acquisitions. What are we to do with them? Nations, no more than individuals, can recall their indiscretions. We are bound to deal with the existing state of things as best we can, and to meet the present crisis with a wise forecast, and as shall become statesmen and patriots. We must have an eye to the peace and harmony of the country and the success of our free institutions.

Now, sir, I am about to make what, perhaps, honorable members will regard as a vain attempt to reduce the questions before us to their due proportions. My conviction is, that the whole difficulty results from the fact that their importance is most enormously overrated, at least in a practical point of view, and that if the whole country could be brought to a proper appreciation of "the truth, and the whole truth," there would be no excitement, no alienation, and, at no distant day, harmony in our public councils, and mutual respect, confidence, and affection among the people, would prevail.

In the first place, I wish to inquire, what is the real state of the case before us, and what are the elements to be brought into view to enable us to make a proper disposition of them?

It has been assumed throughout the entire discussion that this is a controversy between sections and States—between free States and slave States. It has been said, over and over again in this chamber, that the free States are seeking to exclude the slave States from all participation in the common property. This I deny. I hope to be able to show, before I get through, that there is no sufficient ground for controversy in any point of view; but, if the fact be otherwise, I insist that it arises between different classes of citizens, and not between States or sections—between slaveholders and non-slaveholders both of the free and slave States. I do not advert to this for the purpose of raising any invidious distinction between the different classes of citizens in the slave States, but merely to bring out the case in conformity with truth and fact. The non-slaveholders of the slave States can and do

go to our new possessions precisely with the same advantages enjoyed by the non-slaveholders of the free States. They go with their wives their children, and their money, goods, and chattels, at pleasure, and that is all our people can do; and, what is remarkable, they are, when settled in the country, just as determined to exclude slavery as any other class.

Again, the slaveholders of the South can emigrate to the Territories on an exact footing of equality with the non-slaveholders of either section: both can take their families, and, on arrival, can go to work and earn their bread by the sweat of their brow. Slaveholders can take all their property with them, if they will only convert it into money, and that, in the main, is what non-slaveholders are obliged to do. But it is said that non-slaveholders have the privilege of taking any and all of their moveable property specifically. Why should not slaveholders have the same privilege in respect to that sort of property which consists in slaves? The answer to this is plain. The impossibility of doing so is not to be charged to any fault in the Constitution and laws of the United States. It is not the fault of non-slaveholders either of the free or slave States, but it results from the nature of the property itself, which is against common right. It is created by municipal laws, is itself local in its character, and can have no extra-territorial existence, except in States where slavery is tolerated. If a slaveholder voluntarily takes his slave into a free State, he is instantly free; and were it not for the provision of the Constitution which imposes an obligation to restore or deliver up fugitives from service or labor "to the party to whom such service or labor is due," slavery could have no recognition in the free States. The real obstacle, then, to the introduction of slavery into New Mexico and California will be found in the very nature of the institution, and results from principles of jurisprudence acknowledged by the whole civilized world.

The claim that slaveholders have a constitutional right to take this sort of property into the Territories, amounts to a requisition for every rood of land belonging to the United States to be made the theatre of slave labor. It is an attempt to monopolize all the Territories in behalf of slavery. It is a claim to exclude free labor—or, rather, that, if free labor is to enjoy the common property at all, it shall commingle with slave labor, which is impossible. The supposed right to introduce slavery everywhere, and the offer to compromise on 36° 30′, are inconsistent. If it be strictly a right, then all the legislation of Congress on this subject from 1789 to this day is void; the well known anti-slavery clause of the ordinance of 1787 is a nullity, and the compromise on 36° 30′, in the act for the admission of Missouri, is equally vain and nugatory.

Having thus ascertained the true character of the question before us, I now proceed to consider its importance in a practical point of view. It may and does involve an important principle. In reference to the actual state of things in New Mexico and California, it is believed that the bearing of the subject on the welfare and true interests of the different sections has been much overrated, partly to subserve party purposes, and partly to promote private ends. The toiling millions have very little at stake in the solution of the question the one way or the other. It may have some bearing on the question whether this man or the other shall be the next President of the United States, or this party or the other shall control the destinies of this country during the next executive term.

I have often heard it said since I have been in Congress, that the controversies which we have had on questions of this character are in fact a mere struggle between the different sections for political power. The honorable Senator from Tennessee (Mr. Bell) more than once affirmed that such is the object of the present dispute, and this he insisted constituted the only or main obstacle to a satisfactory adjustment. I confess I have never been able to comprehend such a suggestion. Is it meant that there is to be an arrangement of parties on sectional lines? Do honorable members mean to say it is the purpose of the South to obtain, by an augmentation of slave territory, a numerical superiority, and then to band themselves together to control this Government, and to wield all its vast powers for their own benefit? Can any man suspect the North of any such purpose? Will it be said that we have this end in view in opposing the introduction of slavery into territory now free? My belief is, that some vague or indefinite idea or notion of this sort does pervade the public mind, and that it is fraught with nothing but mischief. I fear it has greatly enhanced the bitterness of this controversy. How it is to be done nobody knows. How the issues are to be made up no one can tell. There never has been any such arrangement of parties, and I venture to predict there never will be, or, if there is, it will be only for a brief space. The American people will continue to divide on great questions of public policy, without the slightest reference to the distinction between north and south, east and west. One class of members, and their constituents of all sections, will take one side of these questions, and another class the other side. I cannot, therefore, believe that the question whether we shall open our new possessions to slavery has any thing to do with a mere sectional ascendancy in the Government.

Early in the present session we had considerable discussion on the practicability of maintaining an equilibrium between the free States and slave States, which seemed to partake of the idea to which I now advert. I propose to show that any expectation by our brethren of the South of success in such an effort is utterly idle and fallacious.

And here I observe that the free States have been gaining rapidly on the slave States in the House of Representatives, from the organization of the Government to this day. To show this, I produce the following table:

	Free States.	Slave States.	Maj.
By the 2d sec., art. 1, of the Constitution, the representation in the House stood	35	30	5
By the 1st census	57	48	9
By the 2d census	76	63	13
By the 3d census	103	78	25
By the 4th census	123	89	34
By the 5th census	141	99	42
By the 6th census, (1840)	135	88	47

Since the last apportionment, Wisconsin with three members, Iowa with two, Florida, with one, and Texas, with two have been admitted into the Union, and this carries the majority of the free States up to forty-nine, to be further augmented, and made fifty-one, when California takes her place among the galaxy of States. This disparity will doubtless become more marked by the next apportionment, and I shall not be surprised if the majority shall reach the figure 60; and at no distant period the free States will fill nearly, if not quite, two-thirds of the seats in the House.

As a further illustration of the rapidity with which the free have been gaining on the slave States, I present the following contrast of representation between New York and Virginia:

By the Constitution, New York had	6 members,	Virginia 10—majority for Virginia					
By the 1st census,	" 10 "	" 19 "	- - - - - - - -				9
By the 2d census,	" 17 "	" 22 "	- - - - - - - -				5
By the 3d census,	" 27 "	" 23—majority for N. York	- - - - - - - -				4
By the 4th census,	" 34 "	" 22 "	- - - - - - - -				12
By the 5th census,	" 40 "	" 21 "	- - - - - - - -				19
By the 6th census, (1840)	" 34 "	" 15 "	- - - - - - - -				19

Both States lost six members by the last census, (to be accounted for in part by a reduction of the House;) but the per centage of loss by Virginia was much greater than that by New York, for a reason that is obvious. One would suppose that such facts were enough to excite a doubt in every candid mind as to the propriety of extending slavery into Territories already free, and as to the adaptation of the institution to promote the prosperity of any people. But there is now an exact equilibrium in this Chamber between the free States and the slave States, though the representative population of the former, according to the last census, was 9,654,461, and of the latter only 6,253,915; and the free population stood 9,654,143 in one section to 4,780,087 in the other. It thus appears that the representative population of the free States exceeded, by the last census, that of the slave States by over one-third, and the free population over one-half. Arkansas was admitted into the Union by act of Congress, approved the 15th of June, 1836, with one representative; and she is the first State that failed to take an increase by the first apportionment after admission. She has at this time only one seat in the House, and such will be her situation until the 4th of March, 1853—seventeen years! While, during this long period, she occupies two seats in this Chamber, and wields one-thirtieth of the legislative and executive power vested in this body, but only one out of two hundred and thirty-one parts of the power exercised in the other wing of the Capitol. Whether she will have a stronger position by the next census is doubtful. Verily, this is little better than the rotten borough system!

But the South will continue to enjoy here advantages greatly disproportioned to her population, whether representative or free; yet it is certain that the equilibrium between free States and slave States now existing cannot be long maintained. And here I ask the Senate to consider—

1. That California is now knocking for admission into the Union, and she comes as a free State.
2. Oregon must be divided into three or four States, all of which will have the same character.
3. Minesota will be divided into at least two States, which will exclude slavery.
4. The country above 36° 30′, and west of Minesota, will make two more, equally exonerated from the evils of negro bondage.
5. I hope to show Senators that New Mexico and Deseret will and must be free States, Proviso or no Proviso.
6. Some four or five of the present slave States will become free States by the opening of the next century. I refer particularly to Delaware, Maryland, Virginia, and Kentucky—perhaps others should be added. I here make the prediction that the sun which rises on the 1st of January, 1900, will glance its rays on the broad acres of Virginia as a free State. This result, so highly auspicious, will be effected by emigration from the free States and from Europe. Already we hear the pattering that precedes a storm. Since I came to Congress five hundred northern families (including two members of Congress) have removed to and settled in the small county of Fairfax, adjoining this district. They are penetrating other counties, and will ere long spread over that entire Commonwealth. The effect will be highly beneficent and grateful. They do not and will not go there as agitators on the subject of slavery, but as good, quiet, well disposed citizens, and will consecrate all their energies to developing the resources and advancing the prosperity of that great State. They will purchase the vast estates there common, and will divide them into farms of moderate size—will build school-houses, churches, and villages—put up manufacturing establishments—construct railroads, and develop her resources in every way. "The mother of States" will find herself ere long the rival, if not the superior, of the commonwealth already adverted to, which has so far outstripped her in power and prosperity.

Further, this northern and European emigration will resort to the whole mountain regions of the South, so admirably adapted to free labor. They will fill them up with teeming millions, and, as the process goes on, the colored race will gradually retreat towards the coast—ultimately they may pass off into the West Indian archipelago, or creeping along the *Terre Caliente* of Mexico, may find a resting place in Central or South America. Besides, all whom it may concern should take notice that freedom may erect her standard in Western Texas, where the Germans are resorting in great numbers, who are understood to be quite averse to African slavery. In my opinion, northern agitation will not contribute in the slighest degree to the progress which I doubt not our country will make towards a complete exoneration from the evils of slavery, but our deliverance will result from the developments of time. In this respect, I fully concur in the sentiments of a speech, delivered by the honorable Senator from Kentucky at Lexington, in that State, on the 13th of November, 1847, in which he said:

"The evil of slavery was inflicted upon us by the parent country of Great Britain, against all the entreaties and the remonstrances of the colonies. And here it is amongst us and amidst us, and we must dispose of it as best we can, under all the circumstances which surround us. It was continued

by the importation of slaves from Africa, in spite of colonial resistance for a period of more than a century and a half; and *it may require an equal or a longer lapse of time before our country is entirely rid of the evil.* And in the mean time moderation, prudence, and discretion among ourselves, and the blessings of Providence, may be all necessary to accomplish our ultimate deliverance from it."

The free States, then, have a decided ascendency in the House, and will soon have an ascendency little less marked in this chamber, though you may pospone it for a time by cutting up Texas into three or four new States, in conformity with the annexation resolutions; but Texas may not desire such a division, or if she does, one or more of such States may be free States.

The free States having now a great preponderance in the House, and a corresponding preponderance in the electoral colleges, to be much enhanced hereafter, how idle is it to think of maintaining an equilibrium between the two sections! Of this the honorable Senator from South Carolina, (Mr. Calhoun) whose death we all deplore, seemed to be well aware; for in a speech delivered early in the present session, he demanded an amendment of the Constitution, and new guaranties. But what that amendment and those guaranties should be, he did not see fit to inform us.

In the next place, Mr. President, I observe that this controversy proceeds on the supposition that there is some antagonism, political or otherwise, between the free States and the slave States. The presence of this idea in and out of Congress is the fruitful cause of bitterness, dissension, and strife. I utterly deny that there is any such antagonism—that there ever has been, or ever can be.

1. There has not been, and will not be, a political antagonism between the free States and slave States certainly none of which the latter can complain. It is not so as to the chief executive office. Presidents from the slaveholding States have been chosen forty-eight years out of sixty, and we are now going on four years more; so that, at the end of the present term, the slave States will have held the presidency fifty-two years out of sixty-four, or more than four-fifths of the time from the 4th of March, 1789.

The slave States have had a majority of the cabinet ministers under this Government. Witness the following statement:

	Slave States.	Free States.
State Department	14	4
Treasury Department	6	13
War Department	12	15
Navy Department	10	12
Postmaster Generals	5	8
Attorney Generals	15	7
	62	59
Interior		1
		60

It is believed that the same state of the case exists in regard to the diplomatic appointments, and, indeed, all other branches of public service.

The free States, therefore, have manifested no disposition to avail themselves of their superior strength to secure to themselves an undue share of the patronage of this Government; they have not even done justice to their own sons. Was it not magnanimous in them to elect, as they did in 1848, another President from the opposite section—a slaveholder from the extreme southwest? I say nothing of the propriety of conferring on President Taylor the high office which he now holds; but certainly there was manifested by that procedure anything else than a disposition to do injustice to the slaveholding States. Notwithstanding all the alienation and bitterness which have been exhibited on sectional topics for some years past, and notwithstanding the slaveholding States have almost monopolized the presidential office for sixty long years, the free States, partly from an unbounded admiration for and confidence in the man, and partly from a conviction that the public interest required it, came forward and gave him no less than ninety-seven electoral votes out of one hundred and fifty-four, or sixty majority. In the past, therefore, the slave States have a guaranty for the future; they need fear no organization of the free States against them. It is an unnatural state of things; and if it were to arise from adventitious circumstances, it could only last for a day.

2. There is no antagonism of interest between the free States and slave States. The prosperity of the country depends on elements which are common to both sections—the whole and every part:

1. In maintaining the external peace of the country—a consideration of the first importance.

2. The internal peace and tranquility of the same; it being the duty of the Government, not only to repel invasion, but suppress insurrection, and to execute the laws. To this end, it is armed with ample powers. Here is a guarantee to the slave States against all the hazards of a servile war, and also to the frontier States and settlements, against the dangers of Indian wars and incursions. Texas has, under this head, occasion to appeal to us for relief day by day.

3. On securing to us the blessings and benefits of a good, sound, stable currency, which is much affected, for good or evil, by the legislation of Congress. The heart of our currency is at our great commercial emporium, every throb of which occasions corresponding pulsations at the remotest extremities of the Republic.

4. On a just, wise, and equitable arrangement of our revenue system, so as to promote all branches of our national industry—agriculture, commerce, manufactures, and the mechanic arts. I do not stop to consider whether the system should be protective or otherwise; whether the duties should be specific or ad valorem, or whether the principles of the Tariff of 1842 should obtain, or those of 1846. The effect and operation of the one on the other will ever be general. If the system be good, the benefits will inure to all, though not perhaps to the same extent; and if bad, the evils will be coextensive with

the country, though the pressure may be greater at some points than at others. We cannot say to the good or evil of legislation in this regard, "hitherto shalt thou come, and no further."

5. On promoting the internal trade and intercourse of the country, by a proper system of harbor and river improvement.

6. Ditto the external trade, by facilitating access to our ports by means of light-houses, beacons and buoys, and the survey and exploration of our coast, to say nothing of improving our salt-water harbors.

7. On developing and maintaining our postal system, and making the same commensurate with the wants of the country.

8. On a wise administration of our public domain, so as to promote a rapid settlement of the new States, and extend requisite aid and encouragement to important works of public improvement and to educational and other beneficent objects.

9. On a faithful administration of justice by learned and able judges, and the execution of the laws by competent and faithful officers.

Who has ever heard of any distinction being made between free States and slave States under any of these heads of legislation or administration? Is there the slightest ground to apprehend that any such distinction will be attempted hereafter, or that it would succeed if attempted?

But, Mr. President, there are, I am sensible, many objects of local interest which are at all times before Congress, and require much consideration and a proper disposition at its hands. I have been acting on such questions ever since I have been in Congress, and have never been conscious of making the slightest difference between free States and slave States. I represent a constituency who seldom ask anything at the hands of this Government. During the ten or eleven years I have been in Congress, I have sought almost nothing for my State. Some two or three appropriations for harbor improvements are the sum of the whole matter. I recollect I obtained Mr. Polk's assent to one such improvement by putting it into a light-house bill. Black Rock harbor is highly important to our coasting trade as a harbor of refuge, and it was in danger of being destroyed by the action of the sea on the island constituting it; and finding a light-house bill travelling through the House, I moved an appropriation for the harbor in the name of saving the light-house on the island, and this succeeded. It was the only harbor improvement sanctioned by Mr. Polk during his whole administration.

Mr. Foote. I merely wish to inquire whether the honorable Senator intended to deceive the late President.

Mr. Smith. I intended to put into the bill a highly beneficial provision, and one that the President ought to approve. It is a source of some satisfaction to me that I succeeded in snatching so much money from the gulf of the Mexican war. I got the money—the harbor (light-house and all) is saved—and I thank God for it.

But this is a departure from the subject under consideration. I repeat, I have been almost incessantly voting for local objects of every kind which appertained to other States and sections, and particularly to the people of the Northwest, West, and Southwest. I do not claim to be peculiar in this respect—almost the entire New England delegation have gone with me under the lead of our commander-in-chief, [Mr. Webster,] though not our commander-in-chief on this bill. [Laughter.] I have not veered my course on any distinction between free States and slave States, between the Northwest and Southwest. I could bring a thousand illustrations of the truth of this remark. One will suffice. We had before us the other day a proposition to grant alternate sections of the public lands to aid in the construction of a railroad from Galena, via Chicago to Cairo, in Illinois, and from thence across the States of Kentucky, Tennessee, Mississippi, and Alabama, to Mobile in the latter State—a magnificent undertaking, and worthy of the nation and of the age in which we live. Did we (the men of the North) manifest a disposition to cut off the appropriation at Cairo? The idea that a large part of that road would run through slaveholding States did not even occur to me. I voted for it with the utmost cheerfulness, and I take a deep interest in its success in the House, where such measures have of late failed. Why, sir, I have been concerned in voting lands enough to various objects interesting to the people of those sections to sustain sufficient population to make a considerable nation. It is always with high satisfaction that I lend a helping hand to the new States, and none the less because they happen to be slave States. The struggle with which they open their existence is always exceedingly arduous, and they shall ever receive my sympathy and support. No reason, therefore, can be found in these local objects for the vain effort on the part of the South to maintain an equilibrium between the sections. The States of the West and Southwest have ever had, and will hereafter have, a just and liberal consideration in this regard.

But it is not uncommon to hear the men of the South say that though we have nothing to complain of in the past or the present, yet we fear, if the free States obtain a great ascendency, Congress will interfere with or attempt to abolish slavery in the States. Nothing can be more wild or chimerical than such an idea. The professed abolitionists of the North utterly disclaim any such purpose. Even the fanatics of the Garrison school, who go for an abrogation of the Constitution and a subversion of the Government, do not pretend that any thing of the sort can be attempted, much less done, under the Constitution. But the slaveholding States have ample guaranties against aggressive and unconstitutional legislation in—

1. The improbability of obtaining a majority in either House, much less both, for any such measures.

2. The veto power with which the Executive is invested, and which the present Executive would exercise with the utmost alacrity, if the case called for it, though averse to its use, or rather abuse, as frequently, of late, by other Chief Magistrates.

3. The Judiciary, who will treat all unconstitutional laws as null and void. Is not the South safe with a majority of the Supreme Court from, and the residue by no means ill disposed towards, that section?

4. The political sway which they can ever exercise by joining any minority there may be from the free States—a sway which would not be the less efficacious, even though the number of slave States was considerably reduced. The South has a perfect bond of union in this great interest, and moving as one man, you will ever have the power of successful resistance.

5. The right of revolution—always a remedy when nothing else remains—too often adverted to in Congress—not to be thought of but in the last extremity.

The slave States are, then, safe without the extension of the institution into territories now free. They have no interest in demanding what is contrary to the principles of our Government and the spirit of the age in which we live.

I cannot dismiss this branch of the subject without adverting to the character and value of the slavery questions which have made so much disturbance in and out of Congress for a long time past. What was the importance of the controversies thence arising to the South, and to what extent were the true interest of her people involved? The issues were made up—

1. On the right to petition Congress on the subject of slavery, in cases which it was supposed on one hand, and denied on the other, fell within the jurisdiction of that body. To exclude the exercise of the asserted right, the celebrated 21st rule was adopted by the House (if I mistake not) at the 25th Congress, and about the same time a corresponding rule or practice obtained in this chamber, which has been enforced with more or less rigor to the present day. This rule occasioned in the House a heated dispute—renewed from time to time—in which the late Mr. Adams took a conspicuous part and much excitement and commotion throughout the free States. I found this 'controversy raging' when I first entered the Hall in the fall of 1839, and it was continued with much acrimony through the 26th and 27th Congresses, greatly interrupting the public business, and sometimes producing scenes of disorder little creditable to our free institutions. I have seen Mr. Adams on his feet, presenting these petitions by hundreds, and insisting on his right to do so with his characteristic vehemence. I was at home during the 28th Congress, and the House had the good sense to set aside the rule. Then were realized the truth and accuracy of the predictions which I had often addressed to my Southern friends, that if they would only consent to receive the petitions very few would be presented. On returning to my seat at the opening of the 29th Congress, I found Mr. Adams in his seat, as quiet and inoffensive as a lamb. I heard nothing on the subject during the four succeeding years. Did the the South suffer by the new policy? Have you been less secure in person or estate? Is there now any more danger of a servile war than formerly? The House has to this day enjoyed entire repose, so far as this fruitful cause of dissension is concerned. No doubt the 21st rule did infinite mischief. It never was of the slightest value or use to the South; and yet it would seem (listening, as I have often, to the vehement declamation of members from that section) as if the very salvation of the slave States depended on it. All well informed men admit, that had abolition petitions been received and quietly laid on the table, there never would have been one-fourth part of the agitation at the North that has since obtained.

2. On the expediency of abolishing the slave trade in the District of Columbia, which is deemed odious in most if not all the of slave States, and is very generally inhibited there. Why should not this traffic be put down in the District of Columbia? Why should Southern men endure here what they will not tolerate in their own States? The people of the District are utterly opposed to it, and earnestly desire its abrogation. I produce a petition signed by the Mayor of Washington and all the members of the city councils in this city some time since:

"*To the honorable the Senate and House of Representatives of the United States in Congress assembled:*

"The undersigned, members of the Board of Aldermen and Common Council of the city of Washington, having, in common with their fellow-citizens, long regarded with disapprobation the importation of slaves into the District of Columbia for purposes of sale or traffic elsewhere, and deeming it alike prejudicial to the interests of our city and offensive to public sentiment, request your honorable body to restrain such traffic by the enactment of some law similar in its provisions to that embraced in the code of laws for the District of Columbia, reported to the House of Representatives in the year 1832, by Mr. Wilde, of Georgia, and to the Senate by Mr Chambers, of Maryland, the enactments in the adjoining States of Maryland or Virginia on this subject, or grant to the respective corporate authorities of Washington and Georgetown such powers as will enable them to remedy this evil.

JNO. WILSON,
Vice President of the Board of Aldermen.
SILAS H. HILL,
President of the Common Council.

S. P. Franklin,	Jas. Adams,	W. H. Winter,	Samuel Stott,
B. B. French,	J. W. Jones,	Joseph Borrows,	J. T. Cappell,
John T. Towers,	Jas. Call,	Joseph Bryan,	Robert Clarke,
Wm. B. Scott,	Geo. H. Fulmer,	H. B. Sweeney,	Thomas Thornley,
Samuel Dewey,	F. Y. Naylor,	Wm. L. Dove,	John Johnston,
I. Mudd,	Samuel E. Douglass,	Jesse E. Dow,	G. W. Dove,
Samuel Byington,	Lewis Johnson,	N. Callan,	Richard Wallach.

"I concur in the above application. W. W. SEATON."

This petition was drawn up by a friend of mine at my instance, and, having been signed, was handed to me. I took it to the House, and put it into the hands of Major Gaines, of Kentucky, a member of the Committee for the District of Columbia, who presented it to the body; it was referred, and in due season a bill was reported in conformity to the prayer thereof, (two members from the slave States, to wit, Major Gaines and Gov. Brown, from Mississippi, concurring,) which failed, as

I believe, solely for want of time. It seems to me that this subject should create no irritation at the South; on the contrary, that the members from that section should come forward as one man, and co-operate to relieve the country from this reproach. I am right glad the Select Committee of Thirteen recognise the importance of this duty.

3. On the abolition of slavery itself in this District. Many petitions have been presented seeking this object since I have been in Congress; but I have no recollection that any northern member has seriously entertained the project until the last session of the 30th Congress, when Mr. Palfrey, of Massachusetts, asked leave to bring in a bill to that end, which was refused. Both the honorable Senator from New York, (Mr. SEWARD,) and the honorable Senator from New Hamshire, (Mr. HALE,) declared themselves the other day in favor of abolition in this District, but neither of them informed the Senate what the measure must be to command their support; whether immediate abolition without compensation, or abolition with that principle, and with the assent of owners, or a measure applicable only to the *post nati;* which last was the method adopted in New England. I never have been able to see how either of the last methods could justly give offence to the South, because both acknowledge the right of property; but as to immediate abolition without the consent of the owners, and without compensation, I was early taught by Mr. Adams that it was inadmissible. I quote from a speech of his in the House of Representatives, 27th Congress:

"He said, further, this was no new thing to this House and this country. He had now been ten years successively a Representative of a portion of the people of the Commonwealth of Massachusetts, and, within the very first week of his holding a seat in this House, he had presented fifteen petitions for the abolition of slavery in the District of Columbia; and at that time he gave notice to the House, the petitioners, and the whole country, and his constituents among them, that if they sent their petitions to him to be presented because they expected him to support them, they must understand from him that they were mistaken. This was not an irresponsible act of his; for in his district at that time there were perhaps more Abolitionists than now. It was not then so odious a thing to be an Abolitionist. The inhabitants of his district had presented petitions for that same prayer, which were referred to a committee, and a most respectable report made upon them. He had repeated that same sentiment time after time in this House, and he repeated it now. He said if a bill were to be brought into this House for the abolition of slavery in the District of Columbia to-morrow, he would vote against it."—(Congressional Globe, 2d session 27th Congress, p. 202.)

The remark made by Mr. Adams, in the House, "within the very first week" after he took his seat, may be found in Gales & Seaton's Register of Debates, vol. 8, part v, p. 1426, when, on occasion of presenting some petitions for the abolition of the slave trade and slavery itself in this District, he is reported to have said:

"As to the other prayer of the petitioners—the abolition by Congress of slavery in the District of Columbia—it had occurred to him that the petition might have been committed to his charge under an expectation that it would receive his countenance and support. He deemed it his duty, therefore, to declare that it would not. Whatever might be his opinion of slavery in the abstract, or of slavery in the District of Columbia, it was a subject which he hoped would not be discussed in that House If it should, he might perhaps assign the reasons why he could give it no countenance or support at present. He would only say to the House, and to the worthy citizens who had committed their petitions to his charge, that *the most salutary medicines unduly administered were the most deadly poisons.*"

It is very obvious that the only effect of entertaining a bill here for such a purpose, with a prospect of its passing, would be to transfer every slave in the District to Alexandria, and from thence to the cotton and rice fields and sugar plantations of the South. They would be taken from their quiet and desirable homes in this city, where they are comparatively happy and contented, and husbands would or might be separated from wives, and children from parents. Not one of them would be liberated; their fate would be cruel indeed. This is what I understand Mr. Adams to have meant when he said, "that the most salutary medicines when unduly administered were the most deadly poisons." I now give notice that, should any such bill make its appearance here, I shall move to amend its title so as to make it read, "An act to give activity and vigor to the domestic slave trade." The "abolition of slavery in the District of Columbia" will not express its true effect and meaning. The remarks of Mr. Adams, last quoted, were made on the 12th of December, 1832; they suggested the rule of conduct which Northern men, with few exceptions, have followed from that day to this. How slight, then, are the dangers to the South from this cause, and how groundless the excitement which designing men in that section have long been fostering in this connexion! What if a few thousand citizens have from time to time petitioned Congress? As long as Northern Senators and Northern members do not move in the matter, where is the harm?

I am sensible that the annexation of Texas is extensively regarded at the North as a prolific source of evil; I concur in that view, but do not agree with those who charge the responsibility exclusively on the South. It is true that Southern statesmen—the then President, (Mr. Tyler,) two Secretaries of State, (Messrs. Calhoun and Upshur,) and the late Secretary of the Treasury, (Mr. Walker,)—took the lead in, or rather originated, the movement, doubtless to enhance the political power of the South; but many of the wisest and best men of that section resisted it to the utmost. The patriotic States of Delaware, Maryland, North Carolina, Kentucky, and Tennessee went against it by casting, in the fall of 1844, their electoral votes (in all 46) in favor of Mr. Clay for the presidency, and against annexation. The truth is, that the measure was a great party issue; and if any one desires to find the guilt of the transaction, he must search the skirts of the entire Democracy. The free States gave 94 electoral votes for Mr. Polk and annexation, and incurred their full share of the blame.

While the principles involved in some of these questions were important, one cannot help being struck with their utter insignificance in a practical point of view, and with the trivial character of the causes which have occasioned so much disturbance in Congress, and so much bitterness and alienation

among the people. The idea of any considerable aggression by the free States on the just pretensions and rights of the slave States is absurd and chimerical to the last degree.

But if I am wrong in the views which I have presented, to show that it is not important to the South to maintain in this chamber that equilibrium which has been already lost irretrievable in the House of Representatives and in the electoral colleges, the question arises whether it is not morally certain that our recently acquired Territories will be free, whatever Congress may do on the subject.

1. It is a significant fact, that so far as the only region is concerned into which slavery could be introduced with advantage, the question has already been settled against it. I refer to so much of our new possessions as are included within the limits of the proposed State of California. No matter whether California be or be not admitted now, or whether she be or be not remanded to a territorial condition, there has been such a development of public sentiment there as to render the exclusion of the institution inevitable.

The result in California is exactly what it would be in ninety-nine times out of a hundred, in case of the acquisition of gold-producing regions by the United States. Free labor, whether from the free States or slave States, is always more prompt and energetic than slave labor: the former will ever get into such countries first, and then will exclude the latter.

The only effect of dividing California by the parallel of 36 degrees 30 minutes would be to make two free States on the Pacific in place of one. The idea of making a free State below that parallel, with the free State of California on the north, with the right of recapturing "fugitives from labor," and with the free Mexican States of Lower California and Sonoro on the south, without any such right, will be found illusory. The policy of the States this side of the Rocky Mountains should be to make as few States as possible out of our new possessions; and I shall not depart from that policy, though I feel perfectly assured that they will all be free States.

2. I will next proceed to consider whether there is any danger of the introduction of slavery into New Mexico and Deseret, or Utah, as it is called in this bill. Is it probable that either the one or the other will become the theatre of slave labor? I will begin with New Mexico. And here I observe that the obstacles to the introduction of the institution into that country are—1, legal; 2, social; and, 3, physical.

I will, in the first place, advert to the legal difficulties; and under this head I remark—

1. That slavery had been abrogated in New Mexico before the cession to the United States by the late treaty. On this point I refer to an exposition addressed to the Senate by the honorable Senator from Missouri (Mr. Benton) early in the present session, which, in my judgment, is full and conclusive. The inhibition, no doubt, continues to this day, as one of those municipal regulations which remain in force notwithstanding the conquest.

2. If the ordinances and laws of Mexico abrogating slavery do not continue, yet it may be assumed that *there is no law authorizing it;* and this is just as serious an obstacle to its introduction as a positive law forbidding it. Being against common right, no law for it is as efficacious as ever so much law against it. Such are the principles of jurisprudence throughout the civilized world.

3. At any rate, the right to carry slaves into New Mexico, and to hold them there, is in doubt; and this will be a serious barrier against its introduction. I know of nothing so sensitive of danger as slave property, or so timorous, in face of legal doubt and difficulty. Who will think of taking this species of property from under the guaranties which the well considered and thoroughly matured code of a slaveholding State has thrown around it, into the interior of this continent, when the owner will have no assurance that he can hold it for a single hour? The certainty of litigation, and the uncertainty of the event, will be sufficient to deter him.

In the next place, I will speak of the social difficulties in the way of the introduction of slavery into New Mexico. And here I observe—

1. It is understood that public sentiment, without distinction of race or color, is utterly opposed to it. The American, whether from the free States or slave States, the Spaniard of the full blood, and the mixed Spaniard and Indian race, are all alike opposed to negro bondage.

2. The prejudice of color does not exist in New Mexico. This prejudice is the principal bulwark and safeguard of slavery. The negro laborer would find himself on a footing of equality with the white, Indian, or mixed laborer—just as respectable in every regard; and how could he be held in bondage under such circumstances?

3. Slave labor could not, it is believed, be advantageously used in competition with the cheap peon labor of New Mexico. Peon labor is cheap in wages, and cheaper in subsistence. The wages are only four dollars per month, and subsistence but twenty-four pounds of maize, or Indian corn, per week. This is not even ground or converted into meal, and the peon tastes scarcely one morsel of meat from the beginning to the end of the year. If, therefore, any slaveholder had occasion to go to New Mexico, to embark in agricultural or other business, he would find it greatly to his advantage to sell his slaves, and to employ the native labor of that country.

4. The slave would be sure to receive the countenance and sympathy of the people of New Mexico, and of the savages who infest the surrounding mountains; and the facilities of escape into those recesses and into the adjoining territories of Mexico would be so great, and the encouragement to flee, and the protection after fleeing so certain, as to render such property valueless. Some time since three highly respectable gentlemen from Santa Fé—Messrs. William Curtis Skinner, James L. Collins, and Henry Connelly—visited this city, and I had a full and highly satisfactory conversation with them, touching the state of things in that country, in reference to the question which I am now considering. At my instance they addressed to me a letter on the subject, dated May 18, from which I submit the following extract:

"The greatest danger, in our opinion, to the security of slaves in New Mexico lies in the proximity to the settlements of the many tribes of Indians, with whom they could at all times find a refuge, se-

curing to the fugitive every chance against his recapture. Upon the western border of our territory is the large and powerful tribe of Navajoes—a nation living in towns and villages far removed from civilized life, but with facilities of access which would present strong temptation to the slave panting for freedom and relief from oppression. The known sympathy of the Indian for a fugitive slave would secure him every protection at their hands which he could desire. Experience has shown, in the Seminole war, how infinitely more dangerous—*more savage*—is an escaped negro, than the worst of an Indian tribe.

"New Mexico has within her borders a great number of 'pueblos' or towns settled exclusively by civilized Indians; and the middle and lower classes of our Mexican population, entertaining none of the prejudices against the color of the negro, but every sympathy for his condition as a bondman, would be found offering every facility to his escape from servitude. Again the southern portion—and this is the part, if any, where slave labor ever could be profitable—of our territory borders upon that of the Republic of Mexico: a narrow stream, fordable at almost every point, presenting no obstacle to the escape of a slave to a country where he would be as free as in the land of his forefathers, and far more secure from recapture. A Mexican has no sympathy with slavery—the idea is full of repugnance to him, and his every feeling would be enlisted to give the bondman freedom."

5. But to make New Mexico a slave State, it is necessary that something more should be done than a few slaveholders removing there: they must go there in sufficient numbers to change public sentiment, and to overcome at the polls the repugnance of the non-slaveholding emigrants from the United States, and the native inhabitants of the country for the institution. The gentlemen already named in the same letter remark:

"Public sentiment in New Mexico is against the introduction of slavery there; and in this there is, we believe, no distinction between the native and the American population. We do not remember ever to have heard a single American express himself favorable to the introduction of slavery among us. We believe no difference of opinion on this subject is found among Americans, natives of slave or free States. When the time may arrive for the formation of a constitution, preparatory to our admission into the Union, there is not the *remotest* probability that any constitutional sanction would be given by our citizens to the introduction of African slavery among us."

I now come to the physical obstacles to the introduction of slavery into New Mexico. Can slave labor be profitable there? Does the country, in its geographical position, soil, climate, natural and artificial products, and resources of every kind, hold out any such inducements as will be likely to fix on those regions the evils of slavery? No man will carry slaves into these remote regions on a mere theory. He will not amuse himself with asserting a principle, or what is called such, at the hazard, or rather certainty, of soon finding the bottom of a long purse. Everything of this sort must be brought to the test of the accounts—to the old fashioned, and sometimes disagreeable, ordeal of "profit and loss."

To enable us to reach a satisfactory solution of the inquiry which I have instituted, it is necessary to consider—

1. The geographical position and relations of New Mexico.

In a letter, dated December 18, 1847, addressed to me by Lieutenant Peck, of the corps of topographical engineers, (who was concerned with Lieutenant Abert, of the same corps, in making a reconnoissance or examination of that country in the years 1846-'47,) and which I published in a speech delivered by me in the House, March 1, 1848, that gentleman remarks:

"With respect to the connexion of New Mexico with other parts of the continent: 1st. The nearest settlements to the west are those on the Pacific, distant six hundred or seven hundred miles, and separated by a desert, with reference to which Kit Karson remarked, 'that any party crossing it was bound to eat mule.' 2d. The town of Chihuahua is distant from the most southern settlement of New Mexico 420 miles, and most of the intervening country is desert. The traders are usually from thirty to forty days transporting loads from Santa Fé to Chihuahua. 3d. To the east, the nearest settlements at present are on our own western border—the distance from Fort Leavenworth being 873 miles, via Bent's fort. In course of time our western settlements may be extended some two hundred or three hundred miles westward, to the eastern borders of the great desert; still there will be over five hundred miles of portage. Thus we may consider New Mexico as completely isolated from the rest of the continent."

Mr. Gregg, in his Commerce of the Prairies, (p. 187,) speaking of the same subject, says:

"New Mexico possesses but few of those natural advantages which are necessary to anything like a rapid progress in civilization. Though bounded north and east by the territory of the United States, south by that of Texas and Chihuahua, and west by Upper California, it is surrounded by chains of mountains and prairie wilds, extending to the distance of five hundred miles or more, except in the direction of Chihuahua, from which its settlements are separated by an unpeopled desert of nearly two hundred miles, and without a single means of communication by water with any other part of the world."

Mr. Gregg is mistaken in the assertion that Chihuahua is separated from New Mexico "by an unpeopled desert of nearly two hundred miles." There is that extent of desert, and more, too, between Santa Fé and Chihuahua, but it is broken into three parts, one above El Paso, called "Jornado del Muerto," and two below that point, with intermediate settlements, particularly on the Rio Grande.

3. The surface and soil of New Mexico, and the extent to which it is susceptible of cultivation: The whole expanse comprised within the province is very large, and is believed to be about one hundred and fifty thousand square miles. The only parts which are susceptible of cultivation are to be found in the southwest corner of the Territory, containing not exceeding twenty-five thousand square miles, which are divided unequally by the Rio Grande running across the region now indicated from north to south, and towards the western border. It is exceedingly mountainous, and the country rises very rapidly from the river in both directions. Lieutenant Peck, in the letter above referred to, says that "a large portion of this area" is made up of rocks, sands, and desert wastes. If you cast your

eye on the map, you will see from the position of the towns where the arable land is found. A narrow strip along the Del Norte, with a few detached patches here and there upon the affluents of the same river, constitutes it all; for there is very little land not already improved that is worth occupying.

3. Climate and aridity—necessity of irrigation.—"The general character of this department," (says Mr. Ruxton, p. 191)—

"Is extreme aridity of soil, and the consequent deficiency of water, which must ever prevent its being thickly settled. The valley of the Del Norte is fertile, but of very limited extent, and the other portion of the province is utterly valueless in an agricultural point of view."

Humboldt (in his New Spain, vol. 2, p. 263) says:

"The whole of this country is, in general, *of an alarming state of aridity;* for the mountains De los Mansos, situated to the east of the road from Durango to Santa Fé, do not give rise to a single brook. Notwithstanding the mildness of the climate, and the progress of industry, a great part of this country will never admit of any considerable population."

Lieutenant Peck, in the same letter, says:

"The want of water (for every crop must be watered artificially) will fix a limit, and that a very narrow one, to the tillable land. For example, on the western side of the Rio del Norte, you will notice that the little settlements are all at the heads of the streams and in the mountain valleys; lower down, though the courses of streams are marked, they never contain any water, except during freshets; all is absorbed by the deep sands."

The same officer, in speaking of the valley in which Taos is situated, (Abert's Rep., Ex. Doc., 30th Cong., 1st ses., No. 41, p. 450,) says:

"It may be eight or ten miles from east to west, and seven or eight miles in width from north to south, embracing about 60 square miles. Only a small portion of this is under cultivation, or, indeed, ever can be, as no rain falls here except during the wet season. It is necessary to irrigate all the cultivated land, and the small supply of water fixes a limit, and that a very narrow one, to all the tillable land."

Mr. Gregg, in his Commerce of the Prairies, (page 150,) says:

"The necessity of irrigation has confined, and no doubt will continue to confine, agriculture principally to the valleys of the constantly flowing streams. In some places the crops are frequently cut short by the drying up of the streams."

4. The number, extent, and value of its streams. Mr. Gregg, in the work already quoted, (pp. 138, 140,) says:

"There is not a single navigable stream in New Mexico. The famous Rio del Norte is so shallow for the most part of the year, that Indian canoes can scarcely float upon it. Its navigation is also obstructed by frequent shoals for more than one thousand miles below Santa Fé.

"Notwithstanding the numerous tributary streams which would be supposed to pour their contents into the Rio del Norte, very few reach their destination before they are completely exhausted. Rio Puerco, so called from the extreme muddiness of its waters, would seem to form an exception to the rule. Yet this also, although at least a hundred miles in length, is dry at the mouth for a portion of the year. The creek of Santa Fe itself, though a bold and dashing rivulet in the immediate vicinity of the mountains, sinks into insignificance, and is frequently lost altogether, before it reaches the main river. * * * * Pecos and Choncos may be considered the first constant-flowing inlets which the Rio del Norte receives from Santa Fe south—say for the distance of five hundred miles. It is, then, no wonder that this great river of the north decreases in volume of water as it descends. In fact, above the region of tide water, it is almost every where fordable during most of the year, being seldom ever knee deep, except at the time of freshets."

Lieutenant (now Colonel) Emory, in his report, (Ex. Doc., 30th Cong., 1st sess., No. 41, p. 46,) says:

"We crossed the Rio Grande del Norte at Albuquerque. Its width was about 25 yards, and its deepest part just up to the hubs of the wheels. It is low at present, but at no time, as we learned, is its rise excessive—scarcely exceeding one or two feet."

The same officer, in the report already referred to, (p. 461,) says:

"In many places, the waters [of the Rio Galisteo] are absorbed by the sandy soil over which they have to flow; but water is always found by following up the bed of the stream."

The same, at page 466:

"We now bore due west, and at four o'clock reached the Puerco. After a strict search up and down the river for several miles, we formed our camp near a little pool of water, the only one we could find.

"We had been travelling all day, [on the west side of the Rio Grande, near the sources of the Puerco,] and at length night began to draw on apace. We had not yet found any water, and at last, just as our plight seemed most hopeless, we caught sight of some distant mountains, that from their course we concluded must bound a large valley that without doubt contained a stream. * * * * At last we reached an impassable "arroyo," the banks of which were perpendicular, and about thirty feet above the stream. The men sprang in, and hunted some distance up and down the "arroyo," but there was no water. We could go no further, and were forced to camp here. * * * As the valley around seemed destitute of grass, we let our mules run here, and tried to make our supper, but you may be sure it was a very dry one. * * * We had been travelling since five this morning, without food, without one drop of water, and had marched about twenty-five miles." * * *

The same, page 475:

"On looking at the map, the Rio Puerco appears to be quite a formidable stream. A river 140 miles

long, with a valley of seven or eight miles wide, through which it flows, would lead one to think that here is a fine country for pasturage, and a plenty of water. Not so; for we are now but about forty-eight miles above its mouth, and there is no water, and the valley, deep with sand, only nourishes artemisia, yucca, and cacti."

The same, page 474:

"Rito had been deserted by the inhabitants some years since, because those people who lived higher up on the "arroyo de Rito" cut off all the waters of the creek in seasons when they wanted to irrigate their lands, thus depriving the people of Rito of it when needed most, at the same season, for the same purpose."

The same, page 463:

"The Jemez valley is very sandy; the bed of the stream, three-quarters of a mile in width, contains in many places no water, and when found it is of a dark red color."

Mr. Gregg, in his "Commerce of the Prairies," (page 157,) says:

"A still more powerful cause operating against this [the cultivation of tobacco] as well as every other branch of agriculture in New Mexico, is the utter want of navigable streams as a cheap and convenient means of transportation to distant markets."

Many more extracts of the same character might be added; but these are sufficient to illustrate the inadequateness of the rivers and streams of New Mexico even for the purpose of irrigation, and much more for navigation and other uses of civilized life.

5. Timber and hard wood: New Mexico destitute of both.

Mr. Kendall, in his "Narrative," (page 395,) says:

"From the time we first struck the valley of this stream, (the Rio Grande,) after leaving the mountains in the neighborhood of Santa Fe, to that when we reached the Paso del Norte, but little timber was seen, and that was composed exclusively of cotton wood. The inhabitants are saving of this timber: though it is exceedingly soft and brittle, yet, as they can obtain no other for the construction of their rude carts, its uses to them are invaluable. Sometimes we would journey for days, hardly seeing a tree to each mile we travelled."

Mr. Gregg, in his "Commerce of the Prairies," (page 178,) says:

"There is little timber in New Mexico, except in the mountains and along the water courses; the table plains are generally all open prairie. The first growth, moreover, of all the north of Mexico, presents quite a limited variety of timber, among which the common pitch pine most predominates. * * * On the water courses there is little timber to be found except cotton wood, scantily scattered along their banks. Those of the Rio del Norte are now nearly bare throughout the whole range of the settlements, and the inhabitants are forced to resort to the distant mountains for most of their fuel."

Lieutenant Abert, in his report, (page 475,) says:

"Hard wood cannot be obtained in the whole of New Mexico. The country around us seemed to produce no wood except cedar."

Again, (page 476:)

"On the ridge we collected enough wood to last a couple of days; for no wood is to be obtained in less than nine or ten miles of Albuquerque, where we should stay a couple of days, as it was absolutely necessary our mules should have some rest."

What must a country be which is so entirely destitute of such important elements as wood and timber? And how valuable as the theatre of slave or any other kind of labor, let the people of the States on the Atlantic coast and in the Mississippi valley answer.

6. Its artificial products. Mr. Kendall, in his "Narrative," (p. 365,) says that—

"The valley [of the Rio Grande] is generally fertile, well adapted to the growth of corn wheat, beans, and pumpkins. Not a potato, either sweet or Irish, did we see, although the latter in particular would attain great perfection. Under Anglo-Saxon cultivation, this region might support five times the population it now contains. Still, the want of timber and the immense distance to market will always present obstacles to emigration in that direction."

Lieutenant Emory, in his report, (p. 39,) says "the soil" of the above named valley "is very sandy, and is better adapted to Indian corn than wheat."

On the other hand, Mr. Gregg says, in his work, (p. 186:)

"Wheat has been produced of a superlative quality, and of such abundance that, as is asserted, the crops have often yielded over a hundred fold. I would not have it understood, however, that this is a fair sample of New Mexican soil, though, in point of fact, many of the bottoms are of a very fertile character. The uplands must chiefly remain unproductive, owing in part to the sterility of the soil, but as much no doubt to the want of irrigation—since nearly all the farms and settlements are located in those valleys, which may be watered by some constantly flowing stream."

Lieut. Peck says (Abert's Rep., p. 457:)

"In point of soil, the valley of Taos compares favorably with other portions of New Mexico; and, though snow is to be seen in every month of the year on the neighboring mountains, wheat and corn ripen very well on the plains. These last are the staple productions of the country; though beans, pumpkins, melons, and red pepper are raised to some extent."

It thus appears that cotton, sugar, and rice, the usual products of slave labor, are not, and it is believed cannot, be raised in New Mexico. Will slaveholders abandon these sources of wealth in the

present slave States to devote themselves and the labor of their people to the production of wheat, corn, beans, pumpkins, melons, and red pepper, amidst the Rocky Mountains?

7. The natural products or resources of New Mexico. These are pasturage and mines. With respect to the former, Lieut. Peck, (Abert's Rep., p. 450,) speaking of the country about Taos, says:

"The hills are covered with very good grass, which furnishes subsistence to herds of cattle and horses, as well as to fine flocks of sheep and goats. In these lie the principal wealth of the inhabitants."

Mr. Gregg, in his "Commerce of the Prairies, (p. 160,) says:

"By far the most important of the indigenous products of the soil of New Mexico is its pasturage. Most of the high table lands afford the finest grazing in the world; while for want of water they are utterly useless for most other purposes. That scanty moisture which suffices to bring forth the natural vegetation is insufficient for agricultural production, without the aid of irrigation. * * * * The gramma being rarely nipped by the frost until the rains are over, it cures upon the ground, and remains excellent hay—equal, if not superior, to that which is cut and stacked from our western prairies. Although the winters are rigorous, the feeding of stock is almost unknown in New Mexico. Nevertheless, the extensive herds of the country, not only of cattle and sheep, but of mules and horses, generally maintain themselves in excellent condition upon the dry pasturage alone through the cold season, and until the rains start up the green grass the following summer."

Pasturage is, in fact, the principal source of wealth to New Mexico, but it has of late been greatly impaired and almost destroyed by the incursions of the savages of the surrounding country. If these can be restained, and property and life protected as they should be at any cost, by the strong arm of the Government, no doubt the business of horse, mule, cattle, and sheep raising can be pursued there to great advantage. But wool-growing is no object, on account of the low price of wool. Lieutenant Abert says in his report, p. 452:

"Wool is not considered very valuable, and can be bought for four cents a fleece, or a proprietor will permit any one to shear his sheep for one dollar per hundred."

Sheep, therefore, are raised in New Mexico merely for the sake of mutton, and this is understood to be the best in the world. Stock of every kind is taken into Mexico and sold at renumerating prices. No doubt, then, this kind of business may become a capital object. But can slave labor be employed therein? If any slaveholder were to make up his mind to remove to that country to undertake this pursuit, would he take his slaves with him, or would he employ the cheap labor of the country? In the first place, I have to say that the business requires very few hands. One half-dozen pastores or shepherds would be adequate to take care of thousands of horses, mules, cattle, or sheep. There is no grass to be cut, cured, and housed, and no fodder to be dealt out in the winter season. Probably one or two thousand pastores would be sufficient for the whole country. Not many slave owners would remove to New Mexico with a view to this pursuit; and they would be completely within the power of the present inhabitants, who are so utterly averse to the institution.

Besides, this species of property would be quite insecure, particularly when thus employed. Would any owner dare to send his slaves on to "the high table lands" of that country, in charge of his flocks? If he did, how long would they remain in bondage? If he were to convert them into pastores or shepherds, and were to put a crook into the hands of each to rule his flock, he would soon discover the necessity of employing another set of shepherds to watch the watchers, and to prevent their running away. This ancient implement of pastoral life, would be found exercising dominion not only over quadrupeds but bipeds, and though it might sometimes be used to seize a lamb by the neck, it would probably be much oftener required to fasten on a negro's leg; otherwise he would make off to parts unknown. The idea of employing slaves in this business is too visionary to merit serious notice.

I am sensible that mines are among the natural resources of New Mexico, and that it is extensively believed at the South that slave labor could be employed, and to great advantage, in their development and improvement. But I have to observe, in the first place, that we have no evidence that they are of any considerable value, or rather the evidence is all the other way. Mr. Gregg, in his "Commerce of the Prairies," page 395, says:

"The gold regions are, for the most part, a kind of common property, and have been wrought chiefly by an indigent class of people, known familiarly as Gumbecinos—a name applied to petty miners who work on their own hook. Among these one very seldom finds any foreigners; for, according to the present siple method of working, the profit is too small and too precarious to entice the independent American laborer, who is seldom willing to work for less than a dollar, clear of all expenses, whilst the Mexican Gumbecino is content with two or three reals, most of which is required to furnish him with food. Therefore, these poor miners had a miserable life after all. When short of means, they often support themselves on one real each a day; their usual food consisting of a kind of coarse cake sugar, called pelencillo, to which is sometimes added a little crude ranchero cheese; yet they seem perfectly satisfied."

Mr. Ruxton, at page 191-'2, says:

"Of the many so-called mines of New Mexico, there is but one which has in any degree repaid the labor of working. This is El Real de Dolores, more commonly known as El Placer, situated about eight leagues from Santa Fe, on the ridge of Sierra Obscura. The gold is mostly found in what is technically called dust, in very small quantities, and with considerable labor. It has perhaps produced, since its discovery in 1828, two hundred thousand dollars; but it is very doubtful whether any of these placers would repay the working on a large scale."

Lieut. Abert, in his report, page 451, in speaking of the Gumbecinos, says:

"One can but feel pity for these miserable wretches, and congratulate himself that he does not possess a gold mine. Even the life of the poor pastores is much preferable to that of these diggers of gold."

And then he adds, (page 452:)

"The value of these mines cannot be very well estimated now, as there have been many improvements in the methods of making gold, which, when adopted at these mines, may produce a great increase in their annual yield. At present none of the owners of these gold mines have ever become wealthy by their mining operations, and I have met several who have sunk all they had in searching for gold."

Without undertaking to place an estimate, even in a general way, on the value of these mines, I would observe, it is not at all probable that any one will undertake to improve them, so long as those of California are open, and are so much more productive. Will mines be worked which can afford wages at only three reals (37 cents) per day, when, in California, an able-bodied man can command eight or ten dollars per day? Wages are the true measure of profits.

But, if the fact be otherwise, is it likely that any one would think of employing slaves in this business? Would not the legal and social difficulties already adverted to constitute insuperable barriers? Would not the Gumbecinos be employed in preference, who are so cheaply compensated and subsisted?

How, then, can New Mexico become the theatre of slave labor? Besides the non-adaptation of its soil and climate to the production of cotton, sugar, and rice, the mere cost of transportation would exclude their cultivation. It appears by Lieutenant Abert's report, page 499, that freight from Santa Fé to the navigable waters of the Missouri costs $9 per hundred! So that, to get these articles to market would cost all, if not more than, they could command in market. The want of navigable rivers and other means of cheap transportation must limit production to the consumption of the country, excepting only live stock, where nature herself furnishes cheap means of access to distant markets. The distance to the Missouri river is over eight hundred miles; to the nearest port on the gulf, (in Texas,) about one thousand miles; and to Chihuahua, (the nearest market in Mexico,) as we have already seen, four hundred and twenty miles; and that, too, over about two hundred miles of desert! Taking into view, then, all the circumstances of the case, let the South go to New Mexico with her slaves if she can. I want no higher guaranty against the introduction of the evil than such as the facts of the case afford.

The following statement by Lieutenant Abert, (p. 482,) in regard to the condition of the people in New Mexico in point of education, will, I presume, be highly satisfactory to the Senate:

"I have been surprised by the many men and children of the lower class who both read and write: in fact, all we questioned seemed to be educated thus far; but they have no books. I only recollect to have seen a Roman Catholic Catechism at Pakellas. Many of the sons of the Recos are well educated. We saw several who had been at Union College, St. Louis. They speak French and English, and understand their own language grammatically."

No doubt a people who have made so much progress will soon become qualified to assume all the responsibilities and discharge all the duties of American citizens.

I now come to Deseret, or, as it is called in this bill, Utah; and here the obstacles in the way of slavery are even more serious. By the constitution submitted to us by the people of that country, there is included within her limits all that part of Upper California which is situated east of the proposed State of that name, and even the southern portion of the State itself. But the committee have restricted Deseret or Utah to "all that part of the territory of the United States included within the following limits, to wit: bounded on the west by the State of California, on the north by the Territory of Oregon, on the east and south by the dividing ridge which separates the waters flowing into the Great Basin from those flowing into the Colorada river and the Gulf of California," throwing into New Mexico, as I think very unadvisedly, the residue of the territory lying east of the State of California.

With respect to such residue, I would observe that the remarks which I have already made in regard to New Mexico proper are in the general applicable. I shall, therefore, on the present occasion, speak of Deseret or Utah as it is described in the bill.

The interior of the Great Basin is wholly incapable of being inhabited, unless a few oases be an exception; has no tree or shrub larger than the wild sage, and no animal more considerable than the rabbit. Colonel Frémont, speaking of this basin and its wretched inhabitants, says:

"The rabbit is the largest animal known in this desert; its flesh affords a little meat, and their bag-like covering is made of its skins. The wild sage is their only wood, and here it is of extraordinary size, sometimes a foot in diameter, and six or eight feet high. It serves for fuel, for building material, for shelter to the rabbits, and for some sort of covering for the feet and legs in cold weather."

The only portion of the basin known to be of much value are the valleys and the recesses in the surrounding mountains; as to which I observe that all the valleys within the rim of the northern part are above the parallel of 42 deg., and consequently are in Oregon. The valleys within the western rim are included in the New State of California, and properly so, as their most feasible communications are with the country on the Pacific. Nothing is known of valleys in the southern part of the rim; the country is understood to be high and broken, but not mountainous, and is quite destitute of water, and consequently in a great degree uninhabitable. The valleys within and without the eastern rim of this basin, usually called Deseret, constitute the only portion of these desolate regions that can be made the abode of civilized man.

And here I wish to call the particular attention of the Senate to the objectionable character of the limits proposed by this bill for Deseret or Utah. Why sweep round the rim of the Great Basin, and separate the valleys within the rim from those without? The bill will in part mutilate the Mormon settlements, and expose the people there to great inconvenience. If eastern California must be divided, it should be by a parallel of latitude, and not by such an uncertain and difficult boundary as "the dividing ridge separating the waters flowing into the Great Basin from the waters flowing into the Colorado river and the Gulf of California."

With a view to bring before the Senate such facts as are essential to a just opinion on the question

under consideration, I here submit to the Senate a statement (in the form of a letter addressed to myself) by John M. Bernhisel, M. D., containing many interesting and importing details. Dr. Bernhisel is the agent of the people of Deseret, and has been in attendance during the whole of the present session. He is a native of the city of New York, a gentleman of respectability and intelligence, and worthy of all confidence. His letter is as follows:

"WASHINGTON CITY, *June* 18, 1850.

"SIR: I have received the interrogatories in relation to Deseret, contained in your communication of yesterday, and shall proceed at once to answer them.

"In regard to the country on the Gila and Colorado rivers, I have no knowledge, except from information which is general and accessible to every one.

"The Great Basin of which you inquire, it is believed is about five hundred miles long, east and west, by two hundred and seventy-five in breadth, north and south. Its boundaries are laid down in Fremont's map. It has never been fully explored; but, so far as it has been, a portion of it is found to consist of arid and steril plains; another of undulating table lands, and a third of elevated mountains, a few of whose summits are capped with perpetual snow. Some portions of the Basin abound in rich and nutritious grasses. There are within its limits many streams and lakes, and of the latter the most remarkable is the Great Salt Lake, which is about seventy miles in length, and thirty to thirty-five in breadth. Its waters are a saturated solution of muriate of soda, or common salt. Indeed, they contain more salt than they are capable of holding in solution; and, when low, considerable quantities of it are precipitated to the bottom of the lake, or rather are there crystallized. No living creature can exist in this lake. A striking feature in the topography of this region is, that none of the streams or lakes have any visible outlet either to the Atlantic or Pacific ocean. The sources of the Colorado are in the Rocky Mountains, lying in Oregon and New Mexico, and the country in their vicinty is unfit for cultivation.

"You desire my opinion as to whether the whole of California belonging to the United States, outside of the limits of the proposed State of that name, ought to be united under the same government, or whether it would be convenient to separate the country situated on the tributaries of the Colorado from that of the Great Basin. In my humble opinion, the country exclusive of the State of California should be united under one government, and I think it would be extremely injudicious to separate the country watered by the tributaries of the Colorado from that of the Great Basin, since the two are adjacent, and the access is easy from one to the other. The people inhabiting the former can never have convenient access to Santa Fé; for lofty ranges of mountains intervene between them and the Santa Fé country. The distance from the Green river country to Santa Fé is about eleven hundred miles, and the route to be pursued is by the way of the South Pass and Fort Laramie; whereas the route from the same country to Great Salt Lake city is only some one hundred and twenty to one hundred and thirty miles.

"You inquire what portions of these countries are inhabitable, and ask me to specify the valleys, distinguishing those within the rim of the Great Basin and those on the rivers, which united constitute the Colorado. I am clearly of the opinion that no portion of that vast extent of country between the Great Basin and the Rocky Mountains is inhabitable, excepting the valley of the Uintah, and perhaps that of Green river. The valleys known in the Great Basin are Great Salt Lake valley, Bear river valley, Utah valley, Yoab valley, South valley, Sevier valley, and Sand Pitch valley. The Great Salt Lake valley, which is much the largest, is about one hundred and fifteen to one hundred and twenty miles long, and from twenty to forty broad, but the Salt Lake occupies the greater part of the northern portion of it. The surface of the centre of the valley is level, but ascends gently on either side towards the mountains. There is in the immediate vicinity of the city, bearing the name of this lake, a warm saline mineral spring, issuing from the base of a mountain, the temperature of which is 108 degrees of Fahrenheit. Two miles north of this is a similar spring, whose temperature is 125 degrees of Fahrenheit. The character of the best soil in the valleys that are inhabitable is as follows: one portion of it is a vegetable loam, another a marly loam, and a third a gravelly stratum, containing some silica. The latitude of Great Salt Lake city is 40 deg. 45 min. 44 sec. north. Its altitude is four thousand three hundred feet. The climate is milder and drier in general than it is in the same parallel on the Atlantic coast. The temperature in the Salt Lake valley in the winter season is more uniform than that of the Atlantic States at the same season, the thermometer rarely descending to zero. There is but little rain except on the mountains between the 1st of May and the 1st of October, and hence the necessity for irrigation in most places which are susceptible of it. The other valleys bear a general resemblance to the Salt Lake valley, except that they are much smaller—South valley being thirty miles long by twenty broad, Utah valley about sixty long by twenty broad, and Sand Pitch valley some forty or fifty long and perhaps twenty wide. My information is not sufficient to justify me in making a statement in regard to the size of the other valleys. The only timber to be found in this region is in the '*canons*,' on the banks of a few of the streams, and along the bases of some of the mountains. Wheat, rye, barley, buckwheat, oats, and Indian corn, are its chief agricultural products; and all the garden vegetables peculiar to the middle and western States of this Union are produced in great perfection. Cotton, sugar, and rice are not susceptible of cultivation in the region described; tobacco and sweet potatoes can be produced in limited quantities.

"Only a few portions of the valleys are well supplied with water, and upon the rest but limited crops can be raised, as artificial irrigation in agriculture is indispensable to success. There are tracts of land of considerable extent, in each of these valleys, which are not susceptible of cultivation, because they cannot be irrigated.

"The cost of transportation from Great Salt Lake city to the navigable waters of the Missouri river is about twelve dollars and fifty cents per hundred.

"The population of Deseret is estimated to amount to about fifteen thousand persons, who are locat-

ed principally in Salt Lake, Utah, and Sand Pitch valleys, three-fourths of whom are natives of our Eastern, Middle, and Western States; a small portion are from our Southern States, and the residue are emigrants from Europe. The present population will no doubt largely increase by emigration, not less than from two to three thousand being expected annually.

"I am of opinion that the inhabitable portions of the Great Basin are capable of sustaining a population of from one hundred and fifty to two hundred thousand. The country at the sources of the Colorado, as I have already intimated, is incapable of supporting any population whatever. The Uintah and Green river valleys, lying lower down on the tributaries of the Colorado, are, however, not so steril.

"You ask me if Deseret can ever become the theatre of slave labor. To this I reply that, in my judgment, there is no part of Deseret, so far as it has been explored, in which slave labor can ever be profitably employed.

"There are other facts in relation to Deseret, not embraced within the scope of your inquiries, which may not be entirely uninteresting to you, among which I may mention the following: Great Salt Lake city is pleasantly situated on a gentle declivity, near the base of a mountain, about two miles east of the Utah outlet, or the river Jordan, and about twenty-two southeast of the lake whose name it bears. There is a beautiful brook of cool, limpid water running through the town, called 'City creek.' The city is regularly laid out on a rather extensive scale; the streets cross each other at right angles, and all of them are eight rods wide. Each lot contains an acre and a quarter of ground, and each square eight lots. There are four public squares in the city. The greater part of the houses which have been built thus far are regarded as temporary, and most of them are small, but commodious, being, in general, constructed of '*adobes*' or sun dried brick. Among the public buildings, are a house for public worship, a council house, and a bath house at the warm spring; and it is in contemplation to erect another temple larger and more magnificent than that which was formerly built at Nauvoo. The city is divided into nineteen wards, in some of which school houses have been erected, it being our intention to have a school in each ward at the public expense. Last winter there were several flourishing schools in the city and valley; at some of which were taught, besides the ordinary branches of an English education, mathematics, the Latin, Greek, French, and German languages, and the language of the Society Islands. Here it may not be out of place to relate an incident that occurred last summer. Walker, a distinguished chief of the Utah tribe, residing about two hundred miles south of Salt Lake city, requested our people to make a settlement in his valley. The reasons which he assigned for making this singular request were, that he and his people wished to learn the arts of civilized life, and to bring up and educate their children as ours were brought up and educated. After duly exploring the region of country in which he resided, his request was complied with.

"The number of acres under cultivation in Deseret I am unable to state; but it is very large, considering the short time that has elapsed since the first settlement was made. There is one field which contains six thousand one hundred and sixty-seven acres, and the fence around which is about fifteen miles in length.

"There is a printing press in the valley. There are moreover four grist mills and six saw mills in successful operation; and it is proposed to erect a paper mill, and also to manufacture linen and woollen cloths sufficient for home consumption.

"A general impression exists that property is held in common in Deseret, but this is a very great error. Every man holds his property in his own right.

"These settlements being on the highway to California, tens of thousands of emigrants from the United States find therein a place to rest their wearied limbs, as well as to recruit their animals and stores of provisions, previous to entering the deserts which they have to cross before reaching the goal of their desires.

"With sentiments of great respect, I have the honor to be, &c., &c.,

"JOHN M. BERNHISEL.

"Hon. TRUMAN SMITH."

Mr. Erastus Snow, from the Salt Lake city, visited this city early in the present year. He was of the first party who entered the Salt Lake valley, with a view to settlement, about three years ago, and is more intimately acquainted with the country than any person with whom I have conversed. He has addressed to me an exposition, which I believe to be perfectly reliable, and which I submit to the Senate:

"WASHINTON CITY, *March* 15, 1850.

"SIR: In compliance with your request, I beg leave respectfully to submit the following as the result of three years' experience and observation in that portion of California known as Desere, including a large extent of territory, the greater part of which is, as its name would seem to indicate, sterile and totally unfit for agricultural purposes, and is uninhabited and uninhabitable, except by a few trappers and some roaming bands of Indians, who subsist chiefly upon game, fish, reptiles, and mountain crickets.

"This whole country is almost entirely destitute of timber. The little which there is may be found on the sides of some of the high rocky mountains, and in the 'canons,' or deep gorges of the mountains, whence issue the mountain streams. On the table lands, the gently undulating plains, and the isolated hills, there are none. There are, however, small groves of cotton wood and box elder on the bottoms of some of the principal streams.

"The grass, which grows only on the bottoms of streams, and on the table lands of the warmest and most fertile valleys, is of a kind peculiar to cold climates and elevated countries, and is exceedingly nutritious. It is light and scattering, particularly upon the table lands, and, though it dries in June, yet it retains all its nutritious qualities until the following spring.

"A species of artemisia, generally known by the name of wild sage, and a bush called grease wood, abound in most parts of the country where vegetation of any kind exists, but particularly where there is not warmth and moisture sufficient to produce grass.

"The general sterility of this great interior country may be attributed to two causes: the first and principal one is, that it seldom rains between April and October, except upon the high mountains, where thunder showers are frequent in summer and snow storms in winter. These showers, of course, produce numerous springs and mountain streams, which generally either lose themselves beneath the soil, or disappear during the severe droughts to which this country is subject. And even larger streams than these, within as well as without the rim of the Great Basin, not unfrequently share the same fate. The second cause is the great altitude of the northern and eastern portions of it, varying as they do from 4,300 feet above the level of the sea to the regions of perpetual snow. The Great Salt Lake, being the reservoir of the basin, is probably the lowest point in the territory north of the 37th parallel of north latitude.

"Utah valley, which has probably a milder and more uniform temperature than any other in this region of country, except that of the Colorado, is subject to frosts as late as the last of May, and as early as the first of September, and slight ones during the intermediate months: therefore, Indian corn and vines are rather uncertain crops. It appears from the observations of the last three years that the extremes of temperature are 100 deg. above, and 5 deg. below zero, according to Fahrenheit's thermometer. The variation in midsummer, in the temperature of the day and that of the night, is from 20 to 40 deg.

"In every portion of the Territory where agriculture has been attempted, artificial irrigation has been found to be indispensable; and it is confidently believed that no part of it, however fertile, will mature crops without it, except, perhaps, on some small patches on low bottoms.

"But limited portions, therefore, even of the most fertile and warmest valleys in this region, can ever be made available for agricultural purposes, and only such as are adjacent to streams, and are well located for irrigation. Small valleys, surrounded by high mountains, are the most abundantly supplied with water, the streams being fed by the melting snow and summer showers. Broad extended plains, whether level or broken, are generally arid and unproductive. Such is the whole northeastern portion of Deseret, including the valley of Green river and those of its tributaries, which extend from the Sierra Madre on the east, to the Bear river divide on the west, and from the Wind river chain and cascade on the north, to a point at the south where Green river passes through the mountains, descending over rapids and cataracts to the plains of the lower Colorado. Green River valley is about one hundred and fifty miles square; and though larger than several of the States of this Union, yet its elevation is such, and it is so badly watered, that it is doubted whether a single spot in it is adapted to agriculture.

"Captain Bridger, of the firm of Bridger & Vasques, who have a trading post at one of the most eligible points on Black's Fork of Green river, where several unsuccessful attempts at agriculture had been made, remarked to me, in the spring of 1847, that he would give one thousand dollars to know whether an ear of Indian corn could be raised in Great Salt Lake valley.

"There is, however, a small valley on the Uintah river, about sixty miles south of Fort Bridger, which is perhaps the warmest and most inviting in this portion of Deseret, and in which a settlement will probably be made.

"The Great Basin may be regarded as the northwestern quarter of Deseret; and although warmer than the northeastern, it is to a great extent equally as arid and unproductive. A portion of a large desert, extending through the centre of the Basin from north to south, and from the western shore of Great Salt lake toward the Sierra Nevada, was evidently once the bed of the lake; for various portions of it are covered with incrustations of salt and abound in salt springs, but are destitute of fresh water. All the streams which have their sources in the eastern declivity of the Sierra Nevada, for a distance of five hundred miles, soon disappear beneath the surface, and none of them are known to disembogue themselves either into the lakes of the basin or into the Pacific ocean. There are several small valleys and oases along the eastern base of the Sierra Nevada, but these are included within the limits of the proposed State of California.

"By far the most desirable portions of the Great Basin are the valleys on its eastern border, skirted by the Wasatch range, which extends from near the mouth of Bear river to the Rio Virgin.

"The present settlements, which extend from the Weber river on the north to Sand Pitch valley on the south—a distance of near two hundred and forty miles—number about fifteen thousand souls; and large accessions to this population are expected every succeeding year.

"With high respect, I am your obedient servant, ERASTUS SNOW.

"Hon. TRUMAN SMITH."

The statement of Dr. Bernhisel touching the wonderful progress made by the people of Deseret within a space of time incredibly brief, is abundantly confirmed by a letter which I received from General John Wilson, dated at Salt Lake city, September 6, 1849, from which I submit the following extract:

"A more orderly, earnest, industrious, and civil people, I have never been amongst than these, [meaning the inhabitants of Great Salt Lake city,] and it is incredible how much they have done here in the wilderness in so short a time. In this city, which contains now, as I believe, about from four to five thousand inhabitants, I have not met in a citizen a single idler, or any person who looks like a loafer. Their prospects for crops are fair, and there is a spirit and energy in all that you see that cannot be equalled in any city of any size that I have ever been in, and I will add, not even in 'Old Connecticut.'"

General Wilson is now navy agent at San Francisco, and is a citizen of the first respectability.

It will be found on examination that Deseret presents the same obstacles to the introduction of slavery which exist in New Mexico. There are the same legal difficulties and the same repugnance of public sentiment. An analysis of the facts presented by Dr. Bernhisel and Mr. Snow would present the same physical obstacles which are found on the Upper Rio Grande, and some of them are even more intractable. Its seclusion in the centre of the continent is more entire, and its distance from any available market is much greater than in the case of New Mexico. As to the latter point, witness the following statement:

	Miles.
"From Independence (on the Missouri river) to Fort Kearny is	400
From the latter to Fort Laramie	306
From the latter to north fork of Platte river	127
From the latter to Independence Rock	50
From the latter to South Pass	100
From the latter to Fort Bridger	118
From the latter to Salt Lake city	113
	1,214

To this should be added four hundred miles from Independence to St. Louis; making, in all, sixteen hundred and fourteen miles from the Salt Lake city to the first considerable market. It is true that the emigration to California will take off, probably for a long time to come, all their surplus products—such as wheat, corn, &c. If the country were susceptible of cotton, sugar, and rice, the introduction of slavery, for the reason here indicated, would be impossible. Any man who should even think seriously of taking his slaves into a country so elevated, and so far removed from good markets, would only be worthy of a commission of lunacy.

I find my opinion on this entire subject abundantly confirmed by a gallant and highly accomplished officer of our army (Col. Emory) as follows:

"The country from the Arkansas to this point, [the Colorado river,] more than 1,200 miles, in its adaptation to agriculture, has peculiarities which must forever stamp itself upon the population which inhabits it. All of North Mexico, embracing New Mexico, Chihuahua, Sonora, and the Californias, as far north as the Sacramento, are, as far as the best information goes, the same in the physical character of its surface, and differ but little in climate or products.

In no part of this vast tract can the rains from heaven be relied upon, to any extent, for the cultivation of the soil. The earth is destitute of trees, and in great part also of any vegetation whatever.

"A few feeble streams flow in different directions from the great mountains which in many places traverse this region. These streams are separated sometimes by plains, and sometimes by mountains, without water and without vegetation, and may be called deserts, so far as they perform any useful part in the sustenance of animal life.

"The cultivation of the earth is therefore confined to those narrow strips of land which are within the level of the waters of the streams; and wherever practised in a community with any success, or to any extent, involves a degree of subordination and absolute obedience to a chief repugnant to the habits of our people.

"The chief who directs the time and the quantity of the precious irrigating water must be implicitly obeyed by the whole community. A departure from his orders, by the waste of water, or unjust distribution of it, or neglect to make the proper embankments, may endanger the means of subsistence of many people. He must therefore be armed with power to punish promptly and immediately.

"The profits of labor are too inadequate for the existence of negro slavery. Slavery, as practised by the Mexicans under the form of peonage, which enables the master to get the services of the adult while in the prime of life without the obligation of rearing him in infancy, supporting him in old age, or maintaining his family, affords no data for estimating the profits of slave labor as it exists in the United States.

"No one who has ever visited this country, and who is acquainted with the character and value of slave labor in the United States, would ever think of bringing his own slaves here with any view to profit; much less would he purchase slaves for such a purpose. Their labor here, if they could be retained as slaves, among peons, nearly of their own color, would never repay the cost of transportation, much less the additional purchase money."—*Emory's Rep., Ex. Doc., 30th Congress, 1st session, No. 41, p. 98.*

There is involved in this territorial question a principle which I am not disposed to treat lightly. I will show hereafter how it bears on the present bill. But as a practical matter I consider this dispute, or rather the subject of it, of no sort of value or importance either to the free States or to the slave States. This is no new opinion with me. The policy of the late administration was sufficiently developed as long ago as the fall of 1847, to indicate that they would not close the war short of the acquisition of New Mexico and California. I then declared, in some remarks addressed to a political convention at New Haven, that every rood of the territory to be acquired would be free, and that the Wilmot Proviso was not indispensable to security to the North. It is with inexpressible satisfaction that I find the truth of my prediction realized in part. California is free; the residue of the country will be so; and I am willing to stake what little reputation I have on the result. If we have a great accession of free territory, who is to blame? The South could have prevented these acquisitions: the Whigs of that section tried. Why did not the Democrats co-operate? Why did they not look into the situation of these countries; ascertain, as many of us did, that they would be free, and then govern their course accordingly? Why were they not as sagacious as the honorable Senator from Geor-

gia, (Mr. BERRIEN,) who insisted that, unless the slavery question should be settled by the treaty, "the inevitable consequence would be the exclusion of the South from the territories to be acquired." "Inevitably," he exclaimed; "with the certainty of fate this exclusion would follow."

In view of the considerations adverted to, I insist there is nothing in the subject which should disturb the harmony of the country; that we should lay aside all these unnecessary disputations, and turn our attention to other subjects of more practical importance. We should feel that we are one people, living under one and the same constitution, with a perfect identity of interests, and that we are committed to one and the same destiny of good or evil. Let us not forget that we are bound to carry to a successful consummation the great experiment of self-government which we are making in the face of the world. What if we, by reason of our senseless dissensions and obstinate perversity, fail? Whose cheek will not be suffused by a blush?

It was my purpose to consider the title of Texas to so much of New Mexico as is situated on the east side of the Rio Grande, and to insist that her claim has no adequate foundation whatever; but as I have made up my mind to accord to her not merely justice, but a measure of liberality, I ask myself *cui bono?* Why debate this point when the result, though adverse to Texas, will not vary essentially my course? But I wish to make a few remarks, which, though they have no bearing on the question of title, nevertheless are of an interesting and important character, and should not be lost sight of in a final disposition of the subject.

1. A division of New Mexico by the Rio Grande would be exceedingly inconvenient. If Texas is to have any western boundary there, it should include the whole province. To have the community on the west side of the river separated from the people on the east side, with whom they are most intimately connected in all the relations of business and of family, would be alike injurious and absurd. It would be to deliver over the inhabitants a certain prey to the savages of the adjoining mountains. Mr. Gregg, in his "Commerce of the Prairies," (page 138,) expresses opinions in coincidence with these views.

2. Any recognition of title in Texas to the country on the east side of the Rio Grande would seem to me to be inconsistent with the 9th article of the recent treaty with Mexico, which provides that Mexicans who shall choose to remain in the country, and to become citizens of the United States, "shall be maintained and protected in the free enjoyment of their liberty and property." But if we now recognise the title of Texas as good, when will it be deemed to have taken effect? What will the courts of Texas say on the subject? Will they not hold that such title has been good from the act of 1836, extending her western boundary from the mouth of the Rio Grande to its source? Will not that set aside all grants of the public domain by the authorities of Mexico? Will it not vacate transfers of real estate between man and man, made conformably to the laws of Mexico, and not those of Texas; and thus will not private affairs be thrown into disorder and confusion?

3. If the northern boundary of Texas be fixed as proposed in this bill, then New Mexico, even though the title be considered good, should be free to carry into effect the annexation resolutions, according to their spirit and intent. These resolutions provide that in any such State as should be formed out of the territory annexed, lying north of the parallel of 36 deg. 30 min., slavery or involuntary servitude (except for crime) should be prohibited. It is true that these resolutions limit us to 36 deg. 30 min., and a part of New Mexico, with the boundary thus arranged, would lie below that line; but there is not inhabitable territory enough above it to make a State, and the inclusion of some below is inevitable. If, then, we are to have a free State in Texas, (on the supposition that her claim is good,) we must find it in New Mexico, partly above and partly below the parallel of 36 deg. 30 min.

4. The question of title must be settled by Congress, or in such manner as Congress may point out. This is the ground taken by the late Secretary of State, (Mr. Buchanan.) In his letter to Governor Henderson, dated February 12, 1847, he says "this is a subject which more properly belongs to the legislative than to the executive branch of the Government." Mr. Polk, in his message of the 24th July, 1848, (Ex. Doc., House of Reps, 8th vol., No. 70, p. 415,) concurred in this view. Texas can safely refer this matter to Congress, and is bound to do so as a constituent member of the Confederacy. If Congress cannot settle the question, for aught I can see, it must go to the judiciary. I have too much respect for and confidence in the people of Texas, to believe that they will pursue any other than a moderate and reasonable course; but if she is to become a turbulent and intractable member of the Confederacy, and especially if she is about to take arms in her hands, (as some intimate,) and to involve the country in all the horrors of a civil war, rather than submit her pretensions to the arbitrament of the proper authorities, I trust she will go out of the Union through the enormous breach in the Constitution by which she entered.

I now proceed to examine this bill on its special merits, and to show that there are abundant reasons for withholding from it my support, consistently with the grounds hitherto taken by me.

I am of the opinion that whatever favor public sentiment (particularly at the South,) has accorded to it should be attributed to a misconception of its true character, resulting from its being called sometimes an adjustment, but more generally a compromise, which involves the idea of some reasonable measure, doing justice to all sections, and outraging the feelings of none. For this reason, it is supposed, contrary, as I believe, to the fact, to be adapted to restore harmony to our public councils, and peace and quietude to the country. But I will show that its real attributes are directly the reverse; and it is precisely because I desire an effectual adjustment, (and promptly, too,) that I feel constrained to oppose the bill. It has been for months the great obstacle in our way; and if we fail to realize the wishes of the country, (as I trust we shall not,) the interposition of this measure will be the sole cause. I then observe—

1. It is impossible for me to say positively whether I could vote for the bill or not, though satisfied with its scope and details in general, for the reason that there remains open a significant blank in the fourth article of the last section, in which is to be inserted the sum to be paid to Texas, in considera-

tion of the cession of New Mexico east of the Rio Grande, and for other reasons specified in the article. How is this blank to be filled? Why has the amount been kept a profound secret to this day? It will be time enough to determine whether I should or should not sustain this measure when it shall have been consummated, and we shall have it before us in all its proper proportions.

2. I am under stringent instructions to insist on the insertion of the usual anti-slavery clause in any territorial bill which might be submitted to Congress. I desire it may be understood that I do not consider these instructions, or instructions on any subject, as positively binding, though I shall ever treat them with great deference and respect, and with quite as much the predominating sentiment of the people of my State. The undoubted expectation of my constituents is, that their representatives here should support the usual anti-slavery clause. Though I am of the opinion that it is not indispensible, yet many, and perhaps a majority of them, think otherwise, and I cannot disregard this state of things. The course of Southern members, in insisting with so much vehemence on the right to introduce slavery into the Territories, and especially their confident, and, as I think, mistaken asseverations that the country is available for slave labor, have not been without their effect at the North.

But my constituents do not desire to irritate the South unnecessarily, and they will justify me in leaving the whole subject in the hands of the people of the Territories. Let them form their own institutions, and organize governments for themselves. Let them settle this, and all other matters appertaining to their welfare, as to them may seem best. But if you will not do this, but persist in urging the matter on the attention of the Senate, then my instructions, and the other considerations adverted to, must not escape my attention.

3. I am not prepared to surrender absolutely what I deem a sound principle, that territory, which is free when acquired, should have the proper legal guaranty that it will remain free; but I should do so if I voted for this bill. Is there anything unreasonable in this? I did not desire the acquisition of these Territories, though I felt a perfect confidence they would be free. A vast majority of my constituents were utterly opposed to the policy of acquisition, without reference to the question of free or not free. When the Wilmot Proviso was first proposed in the House, towards the close of the 1st session of the 29th Congress, I voted to annex it to the appropriation proposed to enable Mr. Polk to negotiate a treaty of peace with Mexico, and, when annexed, I voted against the appropriation itself; thereby saying that if you would acquire free territory I should insist on its remaining free, but that I would not consent to the acquisition, though I had a perfect guaranty in advance of the exclusion of slavery.

4. The principle now adverted to is likely to operate favorably to the peace of the country, and so as to save us from the multiplied evils of war. A lust for territory is the great besetting sin of the American people. The policy of acquisition makes an appeal to their hearts, which is almost irresistible. Any cry like that in 1844, in favor of "the re-occupation of Oregon and the re-annexation of Texas," is enough to carry any Presidential election. It is high time that we, as a nation, should have some illustration of the folly of this course. In this point of view, present difficulties will not be without their use.

But if free territory is to remain free, and slave territory slave, then we are not likely to have an acquisition of either the one or the other. The people of the slave States will oppose the former, and of the free States the latter, and they will be re-enforced by the men of peace from the opposite section, and thus we may be saved from all wars of conquest in future.

But in this particular case, for reasons already indicated, I am willing to adjourn the question—to leave the matter in doubt; and that, perhaps, would be just as good a guaranty of peace as a direct application of the principle.

5. Those parts of the bill which appertain to this subject are too artificial, indirect, contradictory, and repugnant in their effect and operation to make it possible for me to assent to them.

The 10th section provides, in respect to Utah, and the 27th in respect to New Mexico, that their respective legislatures shall make no law "establishing or prohibiting African slavery." What does this mean? What will be the situation of the Territories under the operation of such a provision? Can slaves be held therein, or can they not?

I have given the subject a careful consideration, and will express an opinion. To that end, I will take the case of New Mexico.

First. I am convinced that slavery, under this bill, cannot be introduced into so much of the province as is situated on the west or right bank of the Rio Grande. The bill in its application to that region (and in fact to the whole of Upper California not included within the State) *contains the Wilmot Proviso in disguise.*

That part of New Mexico and California belonged indisputably to Mexico. The anti-slavery ordinances and laws of that republic were in full operation at the period of the cession; and they, like other municipal regulations, remain in force to this day. Then comes in the clause in this bill, already adverted to, denying to the legislature the power to establish African slavery. It is quite certain that a mere abrogation of the Mexican ordinances and laws would not reintroduce slavery; but, if otherwise, then such abrogation would in effect establish the institution, and would be an exercise of the power denied, and therefore void. We have only to strip off the verbiage of the bill, and the Proviso is disclosed to us in its full proportions! What our Southern friends regard as a monster, stands revealed to them in all its odious deformities!

Secondly. How is it with so much of New Mexico as is situated on the east side of the Rio Grande? This depends on the question whether this bill recognises in Texas a title to this part of the Territory. I am of the opinion it does; for we are to pay to Texas a large sum of money, not yet specified, but said to be $10,000,000, in consideration of a cession by her of this same territory. This is the only consideration for the payment. There is no pretence that we are liable to pay the debts of Texas, or

to make compensation for the other objects specified in the 3d article. The annexation resolutions provide that "in no event are the debts and liabilities" of Texas "to become a charge on the United States." The payment, then, of the sum contemplated for the cession of this territory seems to me to be an admission that it belongs to Texas.

We admit and agree, contrary to the fact, that it is slave territory, and then the hands of the inhabitants are tied by the clause of the bill, which excludes the power to pass any law "prohibiting African slavery."

I next recur to the annexation resolutions, to draw a distinction between the territory on the east side, above 36° 30′, and the territory on the same side, below that parallel. The resolutions provide that "in such State or States as shall be formed out of said Territory," (meaning Texas,) "north of said Missouri Compromise line, slavery or involuntary servitude (except for crimes) shall be prohibited." If the State or States are to be free, surely the Territory should be free also, while under a government that is merely preparatory to admission as a State or States. So that we are to have a prohibition of slavery on the west side of the river, and an indulgence of it on the east side, below 36° 30′, with prohibition again above that parallel. If the last position is not sustainable, then we have the absurdity of legalizing the introduction of slavery into a Territory, by way of preparation for its admission as a free State. This makes a mere piece of mosaic of the bill—a piebald affair—and gives it a character which I can never sanction.

I will not vote to convert free into slave territory by implication, nor will I go for the Wilmot Proviso *in disguise.* If I am to sustain it at all, it must be openly and aboveboard, so as to assume the proper responsibilities, in face of my constituents and the whole country.

6. It has been claimed that the provision in the annexation resolutions, which looked to the division of Texas into new States, not exceeding four, (those above the parallel already named to be free in any event,) is in the nature of a compact, and binding on Congress. This was the ground taken by the honorable Senator from Massachusetts, [Mr. WEBSTER,] early in the session. But there has been inserted in the bill a clause which sets aside entirely so much of the compact as is in favor of the free States. I refer to the amendment adopted some days since, which provides that "when admitted as a State said Territory," [New Mexico,] "or *any portion of the same*, shall be received into the Union with or without slavery, as their constitutions may prescribe at the time of their admission;" so that the supposed compact is to be binding in favor of the South, while it is set aside as against the North!

7. It is difficult for me to recognise an obligation to pay to Texas any sum of money whatever. If a payment is to be made at all, it must, in my judgment, be on account of her debt. But as between the United States and Texas, we are not bound to pay one penny of her debt—so read the annexation resolutions.

But I am not certain but an obligation does arise as between the United States and the creditors of Texas. I never could see what right we had to absorb the nationality of Texas and her revenues, especially in the case of creditors who had a lien on those revenues, without making some provision for them—nor how we could justly seize on her assets, "all public edifices, fortifications, barracks, navy, navy-yards, docks, magazines, arms, armaments, and other property and means pertaining to the public defence," and leave her creditors, who had paid for these very assets, to obtain satisfaction as they could. It is, then, an obligation to the creditors of Texas. Those creditors, if there be any thing in the claim, are in equity the creditors of the United States; and why not pay them and not Texas?

8. I do not feel certain that I should vote for the bill, even if I could agree to all the details. It is a union of independent measures, which should have a separate and distinct consideration. It is log-rolling in legislation; an attempt to make a strong measure carry a weak one. It says to the House of Representatives, You shall not have the privilege of welcoming California to the Union, except on such terms as we are pleased to dictate; and terms, too, that have nothing to do with the California question. Such legislation is reprehensible, and tends to abuse. This idea is recognised in the act providing a territorial government for Oregon: "To avoid improper influences (say Congress) which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title." I want no other rebuke than this of the whole scheme of this bill.

9. I am strongly apprehensive that the success of this measure here will bring on a collision between the two Houses; and that, after a vain struggle, it will be defeated; and then we shall have to commence the work anew at the point from which we should not have departed—the admission of California. In fact, I have regarded this measure from the first as utterly impracticable. Who can forget that Congress could not, at the two last sessions, deal even with one of these subjects successfully? The Clayton Compromise, so called, at the first failed; and at the last the effort to adjust the same question in the general appropriation bill also failed. Then we were dealing only with the Territories, and now we have two other subjects equally impracticable. In the first instance, I supposed this complex bill would pass the Senate; but I have been at all times certain that it would break down in the House. But now opposition, even here, arises on all sides. Neither the South nor North are satisfied. One member goes against it on one ground, and another on a different ground. We all know the state of things in the House: forty-nine majority from the free States! and this majority to be considerably strengthened from the South, by an opposition corresponding with that which we have here from the same section. I have been convinced at all times that the only practicable way of dealing with these subjects was to take one question at a time; to proceed quietly and gently, availing ourselves of the soothing hand of time. Thus we could at least have settled the California question, and adjusted the controversy with Texas. Probably we might have been able to do something for the Territories. But this bill enters into the midst of all these subjects; seizes hold of them with a kind of violence, and undertakes to force conclusions which the past has taught us are

unattainable. It is not a measure of peace, but of contention and strife; and the sooner we have an end of it, the better it will be for us and the country.

10. I decidedly prefer the President's plan of treating the matter before us. He recommends to Congress the admission of California and an adjustment of the boundary question with Texas. Thus far the Committee of Thirteen and the Executive agree. But with respect to the Territorial question, the President, in effect, proposes to refer the solution of all pending difficulties to the people of the Territories themselves, whereas the committee insist on a solution by Congress. On this subject I submit the following remarks:

1. The President has nowhere said or insisted that his method is the best, *abstractly* considered; but he no doubt thinks it is the best, in view of the existing condition of Congress and the country.

2 It is exactly equal between the two sections, and is perfectly consistent with the honor of both. This is all that could be required, as there are (as I have already shown) no great or substantial interests at stake.

3. It was intended to avoid agitation in Congress and out—the interruption of the public business, and the withdrawal of our attention from subjects of paramount importance. The rejection of his advice has brought on us all the evils which he feared. The progress of the session is vindicating his policy, and ere long that vindication will be complete. His prudence, his sagacity, and his wisdom will stand revealed to the American people, and placed beyond cavil or doubt.

4. The President desired an effectual adjustment of all pending difficulties. The admission of California and New Mexico will be such an adjustment; it will close the door against all further controversy—the passage of the present bill will not. I may not be disposed to insist positively on the admission of New Mexico, though she presents herself here with a constitution in due form. This would, doubtless, be the best course, as it has the merit of finality, and would render the settlement of the boundary question by the Supreme Court practicable and easy.

Mr. Polk, in his annual message, 2d session, 30th Congress, (page 15,) says:

"It is fortunate for the peace and harmony of the Union that this question is in its nature temporary, and can only continue for the brief period which will intervene before California and New Mexico can be admitted into the Union. From the tide of population now floating into them, it is highly probable that this will soon occur."

It has been assumed in this debate that, unless we institute territorial governments, Deseret and New Mexico will be kept without civil institutions and under military sway. This is not true as to either.

How is it with Deseret? The people there have a good government in full operation. There is not a soldier of the United States in Deseret, and consequently all this outcry against military domination is unfounded. The last intelligence from that country contains the following annunciation:

"The general assembly had been in session, and had created several new counties, established courts, sheriffalties, &c.; also a State university, endowed with $5,000 a year for twenty years, the sum to be paid out of the State treasury."—*St. Louis Union.*

This general assembly is organized under and by virtue of the constitution which has been sent here as the basis for her admission into the Union.

How is it with New Mexico? Are liberty, property, and life under military rule in that country? On the contrary, I insist they have a good civil government, created by the people, and just as good as the former provisional government of Oregon. Col. Washington, in his letter to the late Secretary of War, (Mr. Marcy,) dated at Santa Fé, November 8, 1848, (vide President's annual message to this Congress, page 104,) says:

"The system of government now in force in New Mexico is that which was established in 1846, and embraces what is commonly called Kearny's code, to which the people, through their representatives, have happily expressed their assent, as will be seen by their memorial to Congress; and it is considered adequate to the wants of the country until another can be provided."

Well, then, did President Taylor say in his message:

"It is undoubtedly true that the property, lives, liberty, and religion of the people of New Mexico are better protected than even before the treaty of cession."

At any rate, New Mexico, as is believed, has recently held a convention and framed a constitution, preparatory to her admission into the Union. It is the case of California over again. If it is not expedient to admit her into the Union, why not let her people go on under the system which she has thus voluntarily established? California is now pursuing this course, and will continue to pursue it, though not admitted into the Union.

Nothing is wanting to the legality of these governments but the assent of, or conformation by, Congress. This is not unknown to the legislation of the country. The act establishing a territorial government in Oregon (sec. 13) provides that "the existing laws" then "in force in the Territory of Oregon, under the authority of the provisional government established by the people thereof, shall continue to be valid and operative therein, so far as the same be not incompatible with the Constitution of the United States, and the principles and provisions of this act; subject, nevertheless, to be altered, modified, or repealed by the legislative assembly of said Territory of Oregon." Thus Congress recognised the existence of a provisional government in Oregon, and validated its acts. Why not do so in respect to Deseret and New Mexico?

The principle is involved in the proposition to admit California into the Union. The convention which framed the constitution now before us was held without authority of law. It is said there are precedents for California. But this I deny. In all other cases there were organized governments.

But not so in California. Society there was in a chaotic state. There was no law fixing the limits to be represented in convention, laying off those limits into election districts, declaring the time, place, and manner of choosing delegates, establishing the qualifications of electors or the right of suffrage, or determining the time and place of holding the convention. In these respects the case of California is wholly unprecedented. The convention was little better than a caucus, and the constitution, in point of validity, is mere waste paper. All these difficulties the select committee propose to surmount, and properly, as no doubt the constitution is a genuine emanation of public sentiment in California, and therefore she may, under the extraordinary circumstances of the case, be admitted into the Union. The moment this is done, that convention becomes a lawful convention, and that which was irregular and void, becomes valid and binding. And, what is more, we shall, by admitting California, not only validate her constitution, but all the laws which have, since it was framed, been enacted by her legislature, conformably to such constitution and the Constitution and laws of the United States. Why, then, should the committee stumble and break down when they come to the cases of Deseret and New Mexico? Why not make the existing governments of those countries valid governments by the assent of Congress? Even an appropriation to compensate such executive, legislative, and judicial authorities as the people there have constituted, would answer the purpose.

The South ought to be satisfied with this, as Deseret has said nothing about slavery in her constitution, though New Mexico may. This would make a good compromise between the two sections, and much better than this incongruous bill.

But in any event Congress can pass a prospective law—can authorize the people of Deseret and New Mexico to form their own institutions. What can be more just and equal than this, or better calculated to allay excitement? But no, exclaim the committee; Congress should make the governments. Very well; we shall see whether you can do so.

I feel bound to stand by the noble position which the President has assumed, on this subject of strict impartiality between the North and the South. I predicted that such would be his course in respect to all sectional questions, and my anticipations have been realized. He is imbued with a spirit of genuine nationality. He loves his country and his whole country. Notwithstanding he is from the extreme South, and is most intimately identified with her institutions, he cannot forget that there is a great, a generous, and a patriotic North. He stands, therefore, exactly perpendicular between the two sections, with a benignity and kindness for each such as becomes a truly great and good man. He is unmoved by the surging elements of passion and prejudices which are beating about his devoted head. To the turbulence of political strife and civil dissension he says, "Peace; be still!" To the North he appeals: "Do not push the Wilmot Proviso at the South!" "Do not irritate your brethren on a sensitive point!" To the South, he says, "Be not too strenuous in insisting on territorial governments; they are not absolutely necessary. Why should you struggle for a mere triumph, which can result only in increased bitterness and discontent?" To both sections and to Congress, he says, "Leave off quarrelling, and you will have peace; drop the subject entirely, and recollect only our common sacrifices for independence, liberty, and free institutions; that we have been *one* in the past, and should be *one* in the future."

I cannot forget the opprobrium which has been heaped upon him in this connexion. His policy has been called a "do-nothing policy!"—"a good-for-nothing policy!" He has been represented to be a nonentity in the Government—a senseless tool in the hands of unprincipled and reckless men. If I were to desert him now, I should make myself a party to these calumnies. He has my unreserved confidence. I believe in him—in his moderation, his sense of justice, his firmness and unflinching resolution, his sagacity, his wisdom, and especially in his entire devotion to the true welfare of our common country. He has not only my confidence, but my heart; and I consecrate all that I am, and all I hope to be, to his service. Whoever may fly the track, I shall stand by him to the last.

But the present is not without its consolations. Our glorious institutions will survive all these commotions. The Union will be preserved, and the stars and stripes will continue to float on every breeze; for Zachary Taylor has said: "WHATEVER DANGERS MAY THREATEN IT (the Union,) I SHALL STAND BY AND MAINTAIN IT IN ITS INTEGRITY, TO THE FULL EXTENT OF THE OBLIGATIONS IMPOSED AND THE POWER CONFERRED ON ME BY THE CONSTITUTION."

[NOTE.—While Mr. S. was on the floor, information was received at the Senate chamber, from the Executive mansion, that the malady from which the President was suffering had taken such a turn as to indicate he was near the close of life. Mr. S. was not apprized of the fact until he had finished his remarks. While he was among the first to get a thorough insight into the character and qualities of President Taylor, and to form a just appreciation of his fitness for the chief magistracy, it will ever be to him a source of inexpressible consolation that he should have been the last (while he was permitted to remain with us) to stand up in defence of his presidential conduct and course It only remains for Mr. S. to mingle his tears with the numerous friends of the late President, on account of the dire calamity which has befallen us, and to embalm in his memory the many expressions of friendship and respect which he received at his hands. A great and good man has fallen! Let us prove ourselves not unworthy of having had such a Chief Magistrate!]

SPEECH

OF

WILLIAM H. SEWARD,

ON

THE COMPROMISE BILL:

Delivered in the Senate of the United States, July 2, 1850.

Mr. PRESIDENT: If an alien in our land should chance to enter here during these high debates, he would ask whether California was a stranger and an enemy; or an unbidden and unwelcome intruder; or a fugitive, powerless and portionless, and therefore importunate; or an oppressor and scourge of mankind, and therefore hateful and dangerous. We should be obliged to answer, No! California yielded to persuasion, rather than to conquest. She has renounced her lineage, language, and ancient loyalty. She has brought us to the banks of streams which flow over precious sands, and, at the base of mountains which yield massive gold, she delivers into our hand the key that unlocks the long coveted treasures of the eastern world. California refuses only to let us buy and sell each other within her domain, so rich in all the elements of legitimate commerce. She invites us to forego an unjust, injurious, and inglorious dominion over a caste, and to extend the sway of peace, of arts, and of freedom, over nations beyond the seas, still slumbering under the mingled reign of barbarian superstition and unalleviated despotism. The very head and front of her offending hath this extent.

The President of the United States recommends, nevertheless, that California shall be admitted *unconditionally*, while a committee of the Senate insist *on conditions*.

I prefer the President's suggestion; but not merely because it is his, although I honor his patriotism and confide fully in his wisdom. Nor do I prefer his suggestion out of disrespect to the statesmen by whom it is opposed. My veneration for them has been abundantly manifested heretofore, and needs no display of protestations now. We are in a frame of

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things disjoint; and in the confusion resulting from a severance of parties and new conjunctions of statesmen, each of us is obliged to rely on the guidance of his own judgment and conscience.

I submit, sir, that the conditions are *unreasonable*, *injurious*, and *oppressive*, in regard to CALIFORNIA. So far as they are found in the bill before us, they are, 1st, the establishment of a territorial government in New Mexico, silent concerning slavery; 2d, the establishment of a like government in Utah; 3d, a compromise of a border dispute between New Mexico and Texas. The garment of compromise, thus quilted of various fabrics with artistic skill, is ingeniously pieced out with collateral conditions in a report and two other bills concerning slavery in the District of Columbia, the recapture of fugitive slaves, and other national interests or pretensions of slavery.

It is not pretended that California needs aid from these conditions, nor that they can give it. California is taxed for superfluous power to draw the dependent measures into port, which otherwise would founder and be lost. This forced connexion therefore hinders, and tends to defeat, the admission of California.

Why is California subjected to this embarrassment? Does she come without right? She has a treaty. Is that treaty denied or questioned? No, it is unanimously affirmed. Can California abide delay? No; her anomalous condition not merely appeals to our justice, but touches the very virtue of compassion within us. Why, then, should California be kept waiting, while we make a circuit throughout the entire orbit of slavery? California neither brought the States into confederation, nor constructed the Constitution. She neither planted slavery in the slave States, nor uprooted it in the free States. She is not found by the side of Texas invading New Mexico, nor allied with New Mexico in resisting Texas. She is guiltless equally of buying and of selling, of holding and emancipating, of reclaiming and of harboring slaves any where. She has neither vote nor speech here, nor elsewhere, where this angry strife can be composed. She has severed at a blow, and forever, the loose political connexion—the only connexion she ever had, with Utah and New Mexico. The slave States indeed insist on a right to colonize new Territories with a caste. But all agree that the community in any such Territory may establish a constitution prohibiting caste. California, colonized, has done this already, and her maturity is not well questioned, although it has been as rapid and as bewildering as the presentation of a midsummer night's dream. There is, therefore, neither community nor connexion, nor even congruity between the admission of California and the conditions demanded. It is binding

Eros to Anteros—confiding youth to querulous and wrangling age—the struggling hind to ravening hounds.

We were told long ago that California would save time by yielding to this most unjust combination. We have seen the error of that hope. We are making the overland journey of seven thousand miles between the pillars of Hercules, when we might have crossed the Straits of Gibraltar, on a smooth sea, in six hours.

We were told that a minority in another part of the Legislature might prevent the admission of California, and even bring the Government to a dead stand. But it must work in its own democratic and constitutional way, or must cease to work at all. No one nor more of the States can assume the responsibility of arresting the Government by faction. "*Optimis auspiciis ea geri quæ pro reipublicæ salute gerentur, quæ contram rempublicam ferrentur contra auspicia ferri.*"

I submit, now, that the conditions demanded are equally *unreasonable*, *injurious*, and *oppressive*, in regard to the other parties affected by the combination, viz: TEXAS, NEW MEXICO, UTAH, and the DISTRICT OF COLUMBIA.

Each of these parties ought to be regarded as asking only a just award; and Congress is to be deemed ready to make a just one, and no other. Such an award can be made only by bestowing a distinct and separate consideration on each claim. The same principle of dialectic philosophy which forbids multifariousness of issues and confusion of parties in the administration of justice, condemns incongruous combinations in legislation.

The bill before us seems adapted to enable Senators to speak on one side, and to vote on the other; to comply with instructions, and to evade them; to vote for the line of 36 deg. 30 min., and to vote against it; to support the Wilmot Proviso, and yet to defeat its application to the only territories open to its introduction. I solicit—if stronger language were courteous, I might demand—from the majority here a subdivision of the bill, to enable me to vote effectually for what I approve, without voting equally for what my own judgment, concurring with instructions, condemns; and thus to place myself, where I should invite all others to place themselves, under exact and full responsibility to the States and to the people.

While I leave the interests of Texas in the care of her honorable and excellent Senators, I must be allowed to think that their consent to this bill betrays a want of confidence in her claims or in the justice of Congress. A just claim ought not to need an unjust combination. Those who assume that Texas has a valid title to all of New Mexico east of the Rio Grande, as high as the 42d parallel, will necessarily regard that State as

surrendering, for a pecuniary equivalent, an extensive region, effectually secured to slavery, to the equivocations of this compromise. Those, on the contrary, who regard the pretensions of Texas in New Mexico as groundless, will as certainly protest against the surrender of 77,000 square miles of soil, pregnant with liberty, to the hazards of this adjustment. Both of these parties, I think, must agree that the United States ought not to pay Texas the equivalent unless her title is good; and that if her title is good, then the United States have no constitutional power to buy her territory. If they may buy a part of Texas for purposes not defined in the Constitution, they may buy the whole. If they may buy the territory of a slave State to make it free, they may equally buy the soil of a free State to sterilize it with slavery. If it be replied that the title is in dispute, then the transaction changes character; the equivalent is paid for peace; and Texas is not yet lifted up so high, nor are the United States brought down so low, as to obtain my consent to so humiliating a traffic.

I have heretofore said that I could vote to pay the debt of Texas, on the ground that the repudiation of it by the United States, in the agreement of annexation, was fraudulent. But Texas seems to prefer that we should buy domain and dominion from her rather than pay her debts. She must be content, therefore, to satisfy us concerning the cardinal points in the bargain, viz:

First. *The reasonableness of the amount to be paid.*

Secondly. *The value of the equivalent we are to receive.*

Thirdly. *The title of the vendor.*

Fourthly. *The use to which the territory is to be applied.*

First. How much are we to pay? The sum is set down in ——, and the blank is pertinaciously kept open. "The hart Achilles keeps thicket here." A philosopher replied to a man who asked leave to see what he carried under his cloak, "I carry it there that you may not see it."

Well, we are obliged to assume that Texas is to be paid more than her claim is worth, because she will not trust to a distinct and independent negotiation. The payment is a condition of the admission of California; and thus we see California—the desire of the nation and the envy of the world—reduced by the Senate of the United States to the humiliation of chaffering and cheving with money-changers and stock-brokers, continually baiting her offers with richer rewards, to obtain her admission into the Union.

The extent and value of the acquisition are equally unsatisfactory. When the question is on the sum to be paid, Texas owns nearly all New Mexico; but when it comes on the domain to be obtained, it turns out that

we are to cede to Texas a part of that province to save the rest; and to pay her ten or fifteen millions to induce her acceptance of the cession. Surely, if we concede to Texas the admiration her representatives require, they must admit that she knows how to coin our admiration into available gold.

The *title*. It is beyond dispute that the territory which Texas offers was, from time immemorial, an integral part of New Mexico, and that not an acre of it ever was in the possession of Texas. It is equally clear that the United States found it in the possession of Mexico, and conquered, and bought it, and that they hold it by treaty solemnly executed. It is as certain that Texas never conquered it, never bought it, and has no treaty concession to show for it.

But, Texas insists that she has an equitable title. She asserted, I think in 1836, by a law in her statute book, that her boundary should be the 42d parallel; that is, she declared her purpose to conquer so much of New Mexico. But she never executed, nor even attempted to execute, that purpose. She came into the United States without having executed it. Her statute, therefore, was mere *brutum fulmen*. The United States, in the articles of annexation, refused to commit themselves to the claim of Texas. Subsequently the United States waged war against Mexico, not for the claim of Texas, but for other causes. The war was waged to obtain satisfaction of commercial debts, and indemnities for the expenses of the war. Being thus engaged in war, the United States accepted New Mexico and California in satisfaction of the commercial debts and the expenses of the contest, after paying fifteen millions of dollars for their excess in value. Thus the United States, free from obligation to Texas, acquired the territory of New Mexico, making the conquest and paying the whole consideration alone. The claim of Texas is as groundless in equity as by the strict rules of law. The claim of Texas is just as good to the whole of California as to New Mexico.

Nor is the proposition more satisfactory in regard to the purposes to which the territory is to be applied. I am satisfied that the soil of New Mexico is free soil now, by operation of unrepealed Mexican laws. I know that it would be less surely free if this bill were passed. The bill would raise a cloud upon the question. I prefer rather to leave New Mexico as it is.

New Mexico has no representative here. Every phase of this compromise exhibits a dismemberment of her territory; and yet she is to receive no equivalent. Texas already has a vast domain of surpassing fertility. New Mexico is less expansive and comparatively sterile. This bill, nevertheless, literally applies the Scripture, "For unto every one that hath shall be given,

and he shall have abundance; but from him that hath not, shall be taken away even that he hath."

This perversion of right proceeds upon the ground that either New Mexico has no certain title, or that she has no political government to defend it.

Sir, New Mexico was a distinct colony of Spain. New Mexico was a State in the republic of Mexico, and afterwards was a political Territory in that republic. She was never less than that. We found her in that condition and character. She retains that character now. Only her allegiance is transferred to the United States, while some of the powers of government suspended by conquest remain in abeyance. She is a republic according to the definition of Cicero: "*Res publica, res populi, populus autem, non omnis hominum cœtus, quoquo modo congregatus, sed cœtus multitudinis, juris consensu, et utilitatis communione sociatus.*"

New Mexico has domain, population, resources, and qualified dominion—arts, customs, laws, and religion. She holds these physical and moral elements of a State subordinate to the United States, but nevertheless distinctly, and apart from all other communities. New Mexico, moreover, has framed her institutions on the principle of the common origin of man and the common government of God. And thus she possesses the first, last, and chief element of democratic or republican States—impartial civil liberty—that element which favors the creation of wealth, without which a State must be powerless; the equalization of property, without an approximation to which a State is exposed to oppression; the diffusion of knowledge, without which republican institutions cannot be preserved; and the development of strength, courage, and enterprise, without which a State cannot flourish. New Mexico has adopted the system that is best fitted to maintain war, and the system that is best adapted to secure peace. New Mexico, therefore, might well have aspired, even under Mexican sway—much more may she aspire under the fostering care of the United States—to such greatness as the free States in this Union have attained—such greatness as is attainable by only purely democratic States.

New Mexico, pressed by the encroachment of Texas, and by the jealousy of the slave States, implores from us protection of her territory and of her constitution. This bill of compromise compromises her claims by dividing her territory right and left, boldly assigning a part to undisguised slavery, and the rest insidiously to exposed freedom. Sir, if I concur in giving any government to New Mexico, it must be as good a one as she has already. Although the drama of our conquest in Mexico falls into successive acts, conducted by different performers, it is nevertheless one whole transaction; and if this bill shall pass, that transaction, so far as New Mexico is concern-

ed, will be a conquest of a free Republic, and the conversion of it in whole or in part into a slave State.

What is New Mexico that she should be thus wronged? An unoffending rival, prostrate at our feet? I pray you, Senators, for the sake, if not of justice, at least of magnanimity, to exercise your power over her by sparing her—to punish by forgiving her the crime of loving liberty too well. Her ancient charter contains the glowing words—established by the consent of mankind as the foundation of all true government, which Jefferson made our own—"All men naturally were born free, and were, by privilege above all the creatures, born to command, and not to obey earthly authority, not derived from their own consent." That charter is in our hands.

If we rase all that out, and give the charter back to New Mexico, a mutilated and lifeless thing, we shall have repeated the crime of the partition of Poland, the crime of the subversion of the recent brief, but brilliant Republic of Italy; we shall have emulated the Stuart, who seized the charters of the free corporations of England, and thereby lost a throne; and shall have surpassed the Guelph, who interpolated taxation without representation into the Constitution of Britain, and thereby lost the empire which we enjoy. Sir, it would be an act so unjust and so tyrannical, that, upon the principles of our own separation from Great Britain, it would work a forfeiture of our title altogether. Hear what the good Las Casas said to the Emperor Charles the Fifth, concerning these very possessions: "Notwithstanding your grant of all these countries from the Pope, and your title by conquest, you have yet no right over them, unless you do in the first place, as the principal end, regard their good. The reason is, that regard is to be had to the principal end and the cause for which a superior or universal lord is set over them, which is their good and profit, and not that it should turn to their destruction and ruin; for if that should be, from thenceforward that power would be tyrannical and unjust, as tending more to the interest and profit of the lord than to the public good and profit of the subjects, which, according to natural reason and the laws of God and man, is abhorred, and deserves to be abhorred.

Sir, I beg those citizens of the metropolis in the State from which I come, who have requested me to vote for this bill, to consider it in these respects, and then to "examine me, and say how look I, that I should seem to be lacking in justice and humanity so much as this fact comes to."

But it is said that the ordinance of 1787 is unnecessary in New Mexico, and therefore is an abstraction, and that it gives offence.

I cannot yield implicit faith to those who assure me that peculiarities of soil and climate in New Mexico exclude slavery. They are combined

with other statesmen who deny that point ; and this bill concedes away the point itself. It expressly covenants to admit New Mexico as a slave State, if she shall come in that character. I cannot surrender a just and benevolent purpose to arguments which knit contradictions as closely as words can lie together. I know that there are slaves at this moment in Utah ; and I know, moreover, that the discovery of a few flakes of gold, or of a few grains of silver, or even of a few clumps of coal in the unexplored recesses of New Mexico, would be followed by a new revelation of the will of the Almighty in regard to it.

Sir, perhaps those who excuse this measure can point me to a tyrant who ever deprived his subjects of what he deemed necessary for them. Nero thought one neck would be more than enough for the Roman people, when he wished they had but one that he might destroy the body politic at a blow. Perhaps they can point me to any act conferring or declaring human rights that was not an abstraction. It was observed by one of the founders of the Commonwealth of England that the promulgation of those rights had always "been in terms not concrete, but abstract."* Our own experience is the same. There is the Declaration of Independence, with its solemn recital of the natural equality of men, and of the inalienability of their essential rights. There is the Constitution of the United States, beginning with its sublime summary of the objects of the Government, and ending with its jealous bill of personal rights. What were these but abstractions? There is the same bill of rights in every constitution ; and even the constitutions of many of the slave States hopefully assert abstractions of equality, which, for want of only a complete development of political justice, are not yet reduced to the concrete by established laws.

Perhaps, moreover, the apologists can show me some act declaratory of human rights that did not give offence. The tyrant of France took umbrage at the noble motto which Algernon Sydney inscribed in the album of the King of Denmark :

> ———Manus hæc, inimica tyrannis,
> Ense petit placidam sub Libertate quietem.

Nay, Algernon Sydney expiated with his life the offence of writing as mere abstractions the fundamental principles of our own Constitution ; and among them was the Wilmot Proviso, thus expressed by that immortal patriot : "The liberty of one man cannot be limited or diminished by one or by any number of men, and none can give away the right of another."

Equal justice always excites fear, and therefore always gives offence ;

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*Milton.

otherwise its way would be smooth and its sway universal. The abstractions of human rights are the only permanent foundations of society. It is by referring to them that men determine what is *established* because it is RIGHT, in order to *uphold it forever;* and what is *right* only because it is *established*, in order that they may lawfully *change it*, in accordance with the increase of knowledge and the progress of reason.

The abstraction now in question is the right of all the members of a State to equal political freedom. That is the Wilmot Proviso—that is the proviso of freedom—call it by whatever name you will. If it ever was right at any time, in any place, under any circumstances, it is right always, in all places, and under all circumstances. It can be renounced safely nowhere. Certainly New Mexico is not the region, nor is hers the soil, nor hers the clime, where it should be renounced. New Mexico is the very field of the contest. If we surrender here, where we have all the vantage, where else shall we find ground on which to make resistance?

We have taken a breathing spell from annexation of territory to divide the gains. This division once made, no matter how, the national instinct—an instinct fostered by Democratic sentiments and sympathies, and invigorated by martial ambition—will hurry us on in a career that presents scarcely formidable obstacles. Whatever seemed attractive to the slave States in Louisiana, in Florida, in Texas, in New Mexico, and in California, is surpassed in the valley of Mexico, in Yucatan, in Cuba, in Nicaragua, in Guatemala, and in other States of Central America. *There* are fields native to the tobacco plant, to the rice plant, to the cotton plant, and to the sugar cane, and the tropical fruits; and there are even mines of silver and of gold. There the climate disposes to indolence, indolence to luxury, and luxury to slavery. There those who can read the Wilmot Proviso only in the rigors of perpetual winter, or in arid sands, will fail to discern its inhibition. Our pioneers are already abroad in those inviting regions; our capital is making passages through them from ocean to ocean; and within ten years those passages will be environed by American communities, surpassing in power and wealth, if not in numbers, the unsettled and unenterprising States now existing there. You will say that national moderation will prevent further annexation. But national moderation did not hold us back from the Mississippi, nor from the Nueces, nor from the Rio Grande, nor from even the coast of the Pacific ocean. The virtue grows weaker always as the nation grows stronger.

The demand of the slave States for a division line of 36° 30′, or elsewhere across the continent, between slavery in the South and freedom in the North, betrays the near expectation of these conquests. The domestic

production and commerce in slaves will supplant the African slave trade, and new slave States will surround the Gulf of Mexico and cover its islands. Those new States, combined with slave States already existing, will constitute a slave empire, whose seat of commerce on the Crescent levee will domineer not only over the southern portion of the continent, but, through the Mississippi and its far-reaching tributaries, over the broad valley that stretches away from the foot of the Alleghanies to the base of the Rocky Mountains.

This, sir, is the dream of the slaveholder, and this is the interpretation thereof. I know full well that it is woven of the stuff that all "dreams are made on." I know how hopeless would be the attempt to establish and to maintain such States, and an empire composed of such States. But I know that nothing seems to slavery impossible, after advantages already won; and that calamities, distant, and therefore derided, will not deter it from the prosecution of its purpose, or extinguish the hope of success.

There is a sound maxim which teaches that every government is perpetually degenerating towards corruption, from which it must be rescued at successive periods by the resuscitation of its first principles and the re-establishment of its original constitution. The blood is not more native to the heart than the principle of the equality of men contained in the ordinance of 1787 to the Constitution of the United States. The Constitution of the United States confers no power upon Congress to deprive men of their natural rights and inalienable liberty. I shall, therefore, insist upon applying the proviso, not only where it is necessary to save a territory from slavery, but even where its application might be waived, as a means of preserving and renewing the Constitution itself. It cannot be bad political husbandry to stir the earth and apply fresh mould to the roots of the vine our forefathers planted, when its branches are spreading themselves abroad and clustering upon the States which surround us.

Cherishing these opinions, I have struggled, and I shall struggle to the last, to extend the ordinance of 1787 over New Mexico. If I fail in that, I shall not then surrender it by entering into the riddling covenant contained in this bill; but shall fall back, as I did in the case of California, upon the people of the Territory, and leave New Mexico in the mean time under the protection of her ancient laws, deeming her "more safe in sitting free, though without guard, in open danger, than enclosed in a suspected safety." This, sir, will be non-intervention—such non-intervention as you and I can practise and can justify; not voluntary, self-imposed non-intervention, to betray or expose freedom, but compulsory non intervention, when all intervention to save it has failed. The President anticipated that failure, through the

known discordance between the two Houses of Congress, as we all might well have anticipated it; and therefore he recommended the alternative without an unnecessary trial. It would have been wise for the slave States to have adopted it then; it would be wise for the Senate to adopt it now. If we reject it a little longer, we shall only reach it at last through the necessity which he so well foresaw. When that time comes, he will have his triumphant vindication; for then it will be said truly of him, as it was of the noble Roman, never did he do more for harmony and for freedom than when to dull and prejudiced apprehensions he seemed to be doing nothing.

I need only indicate the application of these remarks to Utah.

The District of Columbia, the offspring of the Republic, is cherished equally by all of the States; and if the destinies of the nation are correctly apprehended, the capital must one day stand "in dignity and for the liberal arts" without a parallel. But it yet lacks one element of prosperity—the freedom of labor; and one element of greatness—the dignity of labor. Its atmosphere suppresses, although it cannot smother, the love of liberty, which is a public, universal, and undying affection. Why should the great interests of the capital be cast into the balance, to bring up the already buoyant scale of California? The only reason is, that you have decided to overload that scale with the weight of your gratuity to Texas, and of the suppression of freedom in Utah and New Mexico.

Such, sir, is the manner in which California, Texas, New Mexico, Utah, and Columbia are wronged by casting their interests into the misshapen chaos of fair-seeming forms, and mischiefs manifold, which constitutes this extraordinary scheme of compromise and adjustment.

The scheme has engrossed the Senate six months, to the exclusion of nearly every other measure. If it ever shall reach the House of Representatives, its most auspicious promise there is a rejection, to be followed by a final disagreement between the two Houses. And this will be the sum of the history of the first session of the thirty-first Congress—the history of an attempt to break, in one compact and twisted bundle, fagots so strong and gnarled that they could hardly be snapped singly—an attempt to overcome reason, passion, and prejudice altogether, instead of engaging reason alone.

We were driven and harassed into this strange proceeding by alarms of danger to the Republic. Well, sir, California, New Mexico, Utah, the District of Columbia, were no sooner crowded and crammed into this unwieldy, rickety ark, through distrust of the customary vehicles of legislation, to weather out the dark and dangerous storm, than the storm passed away like a cloud in autumn. The ominous Kalends of June have come, and with them the extra-constitutional assemblage at Nashville, but not its in-

vading fleets and hostile armies. So also the crisis in the House of Representatives has come, without disclosing the steep ruin which was apprehended. The political elements have subsided from their wild uproar. Why not now let California resume the voyage in her own separate vessel, and, following the Presidential chart, make the port speedily and in safety?

The answer is, that the commonwealth is laboring of wounds which threaten its safety. It cannot be improper to apply to each of them a tent that will search it to the bottom.

The first of them is the alleged neglect to surrender fugitive slaves. This wound bleeds afresh at every return of Congress to the Capitol:

> Thammuz came next behind,
> Whose annual wound in Lebanon allured
> The Syrian damsels to lament his fate,
> In amorous ditties all a summer's day.

Sir, it is not proved here that three fugitives a year are withheld against lawful demand; nay, I think it is not proved that even one is so withheld. The value of what is called slave property, because the laws of slave States treat it as property, is not impaired one dollar. Strength, and beauty, and youth, bring their accustomed prices. What, then, is the evil? The people of the free States hesitate at the execution of the act of 1793 among them, without an adequate provision for distinguishing between the fugitive and the free citizen—between surrendering the unhappy slave, and kidnapping the still more unhappy freeman. And what is your remedy? To give the form of a trial after the surrender, in the State to which the alleged fugitive is conveyed! Sir, this will only aggravate the exaggerated evil. Are you, then, prepared to confess that this proud Republic approaches its downfall, because a slave sometimes finds a refuge under it, in spite of its laws?

The next of these evils is the agitation about slavery in the District of Columbia. There are only a thousand slaves here, all told. The people of the free States remonstrate against their being held in hopeless bondage; but they wait patiently, until the mind of the nation can be moved to abolish it. What answer does this scheme give to these remonstrances? It proposes to remove the slave shambles across the Potomac; and, in return for that concession, exacts a guaranty of the continuance of slavery until Maryland shall consent to its abolition. Sir, this is healing the wound by plunging deeper into it the knife that made it. Shall we, then, authorize the newly-returned minister from Russia to give to his imperial master the gratifying intelligence that this Republic, the only counterpoise of his despotism, hastens to its fall by a cause so inadequate and so inglorious as the bare possi-

bility that one thousand slaves may, some five, ten, or twenty years hence, be redeemed from bondage?

The next of these evils is the encroachment of Texas upon New Mexico. Well, sir, we will leave the Territory of New Mexico in the keeping of the President, and her free institutions to the care of her own people, until she can come here as a State and demand admission into the Union.

The fourth of these disasters is the solitude of 10,000 Mormons in the far-off basin of the Salt Lake. But this solitude is of their own choice. They could not live under our governments in any of our States. It is, therefore, solitude sweetened by independence. The remedy proposed by the compromise is to extend to them institutions like those from which they fled. Sir, the Mormons, when they shall have gathered a population adequate to sustain a State government, can establish one; and, in the mean time, they will be living under the protection of our arms, and enjoying the only laws they are yet prepared to endure.

There is, then, only one real wound upon the body politic—the suspense of California. This is a wound, whose pain is not relieved by anguish in any other part; and this is the very one which, with exquisite surgery, the President proposes we shall heal immediately, and by itself, alone.

But it is insisted that, trivial as these disturbances are, the country is nevertheless irritated, excited, and distracted. Sir, the country seems to me neither excited nor distracted. It is worried by our own delay, and has become impatient—not impatient enough yet to approve this bill, but impatient for the admission of California alone. That is all.

Still it is replied that the slavery question must be settled. That question cannot be settled by this bill. Slavery and freedom are conflicting systems, brought together by the Union of the States, not neutralized, nor even harmonized. Their antagonism is radical, and therefore perpetual. Compromise continues conflict, and the conflict involves, unavoidably, all questions of national interest—questions of revenue, of internal improvement, of industry, of commerce, of political rivalry, and even all questions of peace and of war. In entering the career of conquest you have kindled to a fiercer heat the fires you seek to extinguish, because you have thrown into them the fuel of propagandism. We have the propagandism of slavery to enlarge the slave market, and to increase slave representation in Congress and in the electoral colleges—for the bramble ever seeks power, though the olive, the fig, and the vine refuse it; and we have the propagandism of freedom to counteract those purposes. Nor can this propagandism be arrested on either side. The sea is full of exiles, and they swarm over our land. Emigration from Europe and from Asia, from Polynesia

even, from the free States and from the slave States, goes on, and will go on, and must go on, in obedience to laws which, I should say, were higher than the Constitution, if any such laws were acknowledged here. And I may be allowed here to refer those who have been scandalized by the allusion to such laws to a single passage by an author whose opinions did not err on the side of superstition or of tyranny: "If it be said that every nation ought in this to follow their own constitutions, we are at an end of our controversies; for they ought not to be followed unless they are rightly made; they cannot be rightly made if they are contrary to the universal law of God and nature." (Discourses on Government, by Algernon Sydney, chap. 1st, p. 48.) I spoke of emigrants; and wherever those emigrants go—whether they go from necessity or of choice—they form continuous, unbroken, streaming processions of colonists, founders of States, builders of nations. And when colonies are planted, States are founded, or nations built, labor is there the first and indispensable element, and it begins and prosecutes to the end its strife for freedom and power. While the sovereignty of the Territories remains here, the strife will come up here to be composed. You may slay the Wilmot Proviso in the Senate chamber, and bury it beneath the Capitol to-day; the dead corse, in complete steel, will haunt your legislative halls to-morrow.

When the strife is ended in the Territories you now possess, it will be renewed on new fields, North as well as South, to fortify advantages gained, or to retrieve losses incurred, for both of the parties well know that there is "Yet in that word Hereafter."

Senators have referred us to the promise of peace which heralded in the Missouri compromise. Sir, that prophecy is but half its journey yet. The annexation of Texas, the invasion of Mexico, this prolonged struggle over California, this desperate contest for the snows and sands of New Mexico and Deseret, are all within the scope and limits of the prediction; and so are the strifes yet to come over ice-bound regions beyond the St. Lawrence and sun-burnt plains beneath the tropics.

But while this compromise will fail of all its purposes, it will work out serious and lasting evils. All such compromises are changes of the Constitution, made in derogation of the Constitution. They render it uncertain in its meaning, and impair its vigor, as well as its sanctions. This compromise finds the Senate in wide divergence from the House of Representatives, by reason of the undue multiplication of feeble, consumptive States, effected by former compromises of the same sort. You will increase that evil until the Congress of the United States will be unable to conduct the business of the country, by reason of a chronic disagreement

between this and the popular branch; and the result will be the abolition of one branch or of the other; the abolition of either would probably be fatal to liberty.

This compromise is rendered doubly dangerous by the circumstance that it is a concession to alarms of disorganization and faction. Such concessions, once begun, follow each other with fearful rapidity and always increasing magnitude. It is time, high time, that panics about the Union should cease; that it should be known and felt that the Constitution and the Union, within the limits of human security, are safe, firm, and perpetual. Settle what you can settle; confide in that old arbiter, Time, for his favoring aid in settling for the future what belongs to the future, and you will hereafter be relieved of two classes of patriots whose labors can well be spared—those who clamor for disunion, either to abolish slavery or to prevent emancipation, and those who surrender principles or sound policy to clamors so idle.

Sir, the agitations which alarm us are not signs of evils to come, but mild efforts of the Commonwealth for relief from mischiefs past.

There is a way, and one way only, to put them at rest. Let us go back to the ground where our forefathers stood. While we leave slavery to the care of the States where it exists, let us inflexibly direct the policy of the Federal Government to circumscribe its limits and favor its ultimate extinguishment. Let those who have this misfortune entailed upon them, instead of contriving how to maintain an equilibrium that never had existence, consider carefully how at some time—it may be ten, or twenty, or even fifty years hence—by some means, by all means of their own, and with our aid, without sudden change or violent action—they may bring about the emancipation of labor and its restoration to its just dignity and power in the State. Let them take hope to themselves, give hope to the free States, awaken hope throughout the world. They will thus anticipate only what must happen at some time, and what they themselves must desire if it can come safely, and as soon as it can come without danger. Let them do only this, and every cause of disagreement will cease immediately and forever. We shall then not merely endure each other, but we shall be reconciled together, and shall realize once more the concord which results from mutual league, united councils, and equal hopes and hazards in the most sublime and beneficent enterprise the earth has witnessed. The fingers of the Powers above would tune the harmony of such a peace.

SPEECH OF HON. WILLIAM UPHAM, OF VERMONT,

ON

THE COMPROMISE BILL.

Delivered in the Senate of the United States, July 1 and 2, 1850.

The Senate having under consideration the bill for the admission of California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her Western and Northern boundaries—

Mr. UPHAM said: Mr. President, it is my purpose, in the humble part I am about to take in the discussion of the various questions growing out of this measure, to address the Senate in the language of "truth and soberness," without any attempt at embellishment or display. Rhetorical flourishes and high sounding declamation, in my poor judgment, (to say nothing of their bad taste in this chamber,) have no tendency to allay the prevailing excitement, or to quell the fury of the storm that is beating so pitilessly upon us. I shall, therefore, express my views with great frankness and plainness, but, at the same time, in language, I hope, not unbecoming the position I occupy, or the importance of the subject under consideration.

Mr. President, if any thing could awaken in my mind fearful apprehensions for the stability of the Government, and the perpetuity of our free institutions, it would be the oft-repeated declaration, on this floor and elsewhere, that the laws of Congress touching the question of slavery in our newly-acquired Mexican Territories, and in the District of Columbia, if not agreeable to the taste of Southern politicians, will be resisted at all hazards and to the last extremity. But, sir, I am not very easily alarmed, and therefore have no fears for the safety of the Union; no, sir, none whatever. The foundation upon which it rests was laid broad and deep by the patriots of the Revolution, and cemented with their blood, and the first open attempt to undermine it will meet with a most severe rebuke, not only from the constituted authorities of the country, but from twenty millions of people, most of whom regard the Union as the ark of their political safety, and stand ready, if need be, to peril their lives in its defence. The cry of disunion has gone out from the halls of Congress; but, sir, if I have not greatly mistaken the signs of the times, it meets with no favorable response from the people in any section of the country; no, sir, not even in the slave States. The people of the South, with few exceptions, cling to the Union with as much devotion and affection as the people of the North. Their fathers and our fathers stood shoulder to shoulder on many a battle field, in hours of peril and of glory, to open the way for its establishment; and it is our most sacred duty, as their descendants, to uphold and preserve it at every hazard.

Mr. President, the people of this great country enjoy too much security, too much happiness, and too much prosperity in the Union, to desire to go out of it to better their condition. They are contented where they are; and, if they have grievances to complain of, they can seek and obtain redress much better in the Union than out of it. The disastrous consequences that must follow the breaking up of the deep foundations of the Government, and the consequent rupture of the ties that bind these States together in one family, the people fully understand. They know that disunion is nothing more nor less than civil war, the arming of one section of the country against the other for deadly conflict; and they know, too, that the first drop of blood shed in a conflict of arms between the North and the South, would be the death-knell of freedom here and throughout the world. Who, Mr. President, that is not laboring under some strange hallucination, can believe for a single moment that secession would furnish a remedy for any of the grievances complained of by the slave States? It would be a forfeiture of all their interest in the Territories, and a surrender of all claim upon the free States for the restoration of their fugitive slaves. In the Union the rights of all can be secured and protected; out of the Union all would be doubt, uncertainty, and insecurity. But the Union, it is said, is in danger, and that the immediate cause is the almost universal discontent which pervades all the States composing the Southern section of the confederacy. What, sir, has caused this wide-spread discontent? One of the causes, we are told by Southern Senators, is the long-continued agitation of the slave question on the part of the North, and the many aggressions which they have made on the rights of the South during the time. Another cause, it is said, is to be found in the fact that the equilibrium between the two sections of the Government, as it stood when the Constitution was ratified and Government put in action, has been destroyed, not by the operation of time, but by the legislation of Congress. The legislation complained of is, first, the ordinance of 1787; second, the system of revenue and disbursements adopted by the Government; third, the Missouri compromise; and, fourth, the exclusion of slavery from the Oregon Territory. Now, Mr. President, I propose, before urging my objections to the bill under consideration, to examine these causes of discontent and these acts of legislation, for the purpose of showing, first, that the agitation of the subject of slavery, with a view to effect its abolition,

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commenced in the South before the Revolution, and continued up to 1832; and that the agitation in the North, of which the South complains, was occasioned by the aggressions of the slave power on the rights of the North; and, secondly, that the legislation complained of, with the exception of the Oregon bill, cannot with truth be charged to the North.

And, first, as to the agitation of the slave question. A brief reference to the early history of the country will show that a strong opposition to slavery manifested itself in many of the colonies before the declaration of independence, and that in no section of the country was the opposition stronger and more determined than in the South. At various periods in 1774, before the first meeting of the Continental Congress, the people in many of the counties in Virginia, in public meetings, assembled "to consider of the most effective method to preserve the rights and liberties of America," took up the subject of slavery, discussed it, deliberated upon it, and passed resolutions declaring it injurious to the colonies. The proceedings of these meetings may be found in the 1st vol. of the 4th series of American Archives, published by order of Congress. I shall not detain the Senate by reading them. I will, however, beg permission to refer to a resolution adopted by the freeholders and other inhabitants of the county of Culpeper, assembled at the court-house in that county, on the 7th of July, 1774. It is in the words following:

"*Resolved*, That the importation of slaves and convict servants is injurious to this colony, as it obstructs the population of it with free and useful manufacturers; and we will not buy any such slave or convict servant hereafter to be imported."

Free and useful manufacturers were regarded of great importance in the colony, and as the importation of slaves obstructed the population of it by that desirable class of men, the good people of the county resolved to give no encouragement to slavery.

Resolutions of a similar character were passed in many of the other counties in the Commonwealth, and also at a State Convention held at Williamsburg on the 1st of August, 1774.

Mr. Jefferson, a delegate to the Williamsburg Convention, being unable to attend, addressed a letter to the body, in which he expressed his views in regard to slavery in the following language:

"For the most trifling reasons, and sometimes for no conceivable reason at all, his Majesty has rejected laws of the most salutary tendency. THE ABOLITION OF DOMESTIC SLAVERY IS THE GREATEST OBJECT OF DESIRE IN THESE COLONIES, where it was unhappily introduced in their infant state. But previous to the enfranchisement of the slaves we have, it is necessary to exclude all further importations from Africa. Yet our repeated attempts to effect this by prohibitions, and by imposing duties which might amount to prohibition, have been hitherto defeated by his Majesty's negative. Thus preferring the immediate advantages of a few *African Corsairs* to the LASTING INTEREST of the *American* States, and to the RIGHTS OF HUMAN NATURE DEEPLY WOUNDED BY THIS INFAMOUS PRACTICE."

Is this, sir, the language of fanaticism or of patriotism? "*The abolition of domestic slavery is the greatest object of desire in these colonies, where it was unhappily introduced in their infant state.*" This was Southern sentiment when uttered by Mr. Jefferson, and concurred in by all, or nearly all, the slave States. Then five or six hundred thousand slaves were considered a great evil, and no sacrifice was too great to get rid of them. Now, three or four millions are regarded as a great blessing; and the integrity of the Union is threatened if they are excluded from the free territory of the United States. But to pass on. The Convention at Williamsburg recommended a Congress, in which all the colonies were to be represented, to meet at Philadelphia on the first Monday in September, 1774, to take into consideration the critical condition of the country, &c. The recommendation was favorably received by the other colonies; and, on the day named by Virginia, delegates from all the States, except Georgia, appeared at Philadelphia, and the Congress was organized. It was a collection of patriots and statesmen, assembled in the darkest hour of our political history to consider of the best method to preserve the rights and liberties of America. George Washington, the Adamses, and the Rutledges, were there, to mingle their counsels with the other eminent men of the body. Among the weighty matters there considered and discussed, slavery was not omitted. No, sir, it was thoroughly examined and deliberately condemned. On the 12th of January, 1775, Georgia proclaimed her sentiments in regard to slavery in clear and emphatic language. Hear it:

"We, therefore, the representatives of the extensive district of *Darien*, in the colony of Georgia, having now assembled in Congress, by authority and free choice of the inhabitants of said district, now freed from their fetters, do resolve—5. *To show the world that we are not influenced by any contracted or interested motives, but a general philanthropy for* ALL MANKIND, *of whatever climate, language, or complexion*, we hereby declare our disapprobation and *abhorrence* of the *unnatural practice* of slavery in America, (however the uncultivated state of our country or other specious arguments may plead for it,) a practice *founded in injustice and cruelty* and *highly dangerous* to our liberties, (as well as lives,) *debasing* part of our fellow creatures below men, and *corrupting the virtue and morals* of the rest, and is laying the basis of that liberty we contend for, (and which we pray the Almighty to continue to the latest posterity,) upon a very wrong foundation. We, therefore, *resolve at all times to use our utmost endeavors for the manumission of our slaves* in this colony, upon the most safe and equitable footing for the master and themselves."—*Vide* 1*st vol.*, 4*th series*, *American Archives*, *p.* 1136.

This language, if uttered in the North, would be called by our Southern friends rank fanaticism, and in the highest degree insulting to them. But, sir, it is the language of the representatives of the extensive district of Darien, in Georgia, of slaveholders themselves, of men well qualified to judge of the effect of slavery upon the institutions of the country and the morals of the people. They say, it is founded "in *injustice* and *cruelty*, and *highly dangerous* to our *liberties*, (as well as lives,) *debasing* part of our fellow creatures below men, and *corrupting the virtue and morals* of the rest," &c. Surely, sir, if this be its character, it is the duty of every statesman, philanthropist, and christian to oppose its extension. North Carolina was not silent on this subject. She held her State convention at Newbern, in August, 1774, and resolved not to import, or purchase slaves imported and brought into the Province by others,

after the 1st day of November, then next. Then she regarded slavery as prejudicial to her interests, and desired to get rid of it. Now, it would seem, judging from the resolutions she has sent here, and the speeches of her representatives, that slavery is the greatest blessing she enjoys, and that the Union would be valueless to her without it.

On the 6th of July, 1775, the Continental Congress published to the world a *Declaration of Rights on taking up arms;* a declaration beginning with a sentence to which I desire to call the attention of the Senate and the country, as it contains an *unlimited* condemnation of slavery. It is in the words following:

"If it were possible for men to exercise their reason to believe that the Divine Author of our existence intended a part of the human race to hold an absolute property in, and an unbounded power over, others, marked out by his infinite goodness and wisdom as the objects of legal dominion, never rightfully resistable, however severe and oppressive, the inhabitants of these colonies might at least require from the Parliament of Great Britain some evidence that this dreadful authority over them had been granted to that body."

Here, sir, is a declaration, in terms clear and unequivocal, by the Continental Congress, representing all the States, against the right, moral or political, of one portion of the human race to hold absolute property in another.

But, Mr. President, the patriotic members of the Continental Congress did not content themselves with declarations alone against slavery. They did more. They prohibited the importation of slaves into any part of the Confederacy, in April, 1776.

The same Congress, on the 4th of July, 1776, published to the world that great declaration of universal freedom which forever separated the Colonies from the British Crown. And, sir, among the causes which impelled the separation, I find written down by Mr. Jefferson the following:

"He [the King of Great Britain] has waged cruel war against human nature itself; violating its most sacred rights of life and liberty in the persons of a distant people, who never offended him; captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation hither. This piratical warfare, the opprobrium of infidel powers, is the warfare of the Christian King of Great Britain. Determined to keep open a market where men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce."

Yes, sir, the keeping open a market in the colonies where men, women, and children were sold like sheep in the shambles to the highest bidder, was regarded by the immortal author of the Declaration of Independence, as worthy of a place among the causes which impelled our forefathers solemnly to publish and declare "That these United Colonies are, and of right ought to be, *free and independent States;* that they are absolved from all allegiance to the British Crown, and that all political connexion between them and the State of Great Britain is, and ought to be, totally dissolved." Now, sir, to digress for a moment, I ask, in all candor, is it not a disgrace—a shame—a burning shame, that in this city, in sight of this Capitol, a market is now kept open where men, women, and children are made merchandise, and daily bought and sold? Is it not time, high time, that Congress should put an end to this accursed traffic in human flesh? It is an "execrable commerce," and the ingenuity of man can urge nothing in justification or extenuation of it. No, sir:

"Not all that heralds rake from coffined clay,
Nor florid prose, nor honeyed lies of rhyme,
Can blazon evil deeds, or consecrate a crime."

I pass, Mr. President, to the proceedings of the Congress of 1784, (the first after the peace of 1783,) touching the subject of slavery. On the 19th of April, 1784, a committee, of which Mr. Jefferson was chairman, reported a plan for a temporary government of the Western Territory. The plan reported contained a clause for prohibiting slavery in the Territory after the year 1800. The clause, however, for reasons I shall hereafter assign, was stricken out, and the plan adopted without it. The clause was again offered on the 16th of March, 1785, and again rejected.

On the 11th of July, 1787, a committee to whom was referred the report of a committee touching the temporary government of the Western Territory, reported an ordinance for the government of the Territory of the United States northwest of the river Ohio. The 6th article of the ordinance reported prohibited slavery in the Territory, and provided for the restoration of fugitive slaves claimed by any one of the *original States*. On the 13th of July, the ordinance was read a third time, and passed by a unanimous vote. Thus, sir, was slavery forever excluded from all the territory belonging to the United States, by the consent and vote of every State represented in the Congress of 1787.

As I shall have occasion, in another part of my remarks, to refer again to this ordinance, I will leave it for the present, and pass to the Federal Convention of 1787.

The members of that Convention, I maintain, had no idea of framing a government under which slavery could be extended and perpetuated. No, sir; far from it. They *expected* the gradual diminution and not remote extinction of slavery, and *designed* to prevent its extension. This, sir, is apparent to my mind, not only from the debates in the Convention and from the Constitution itself, but from the well known opinion of many of the leading members of the body upon the subject, and the construction they put upon the instrument in the State Conventions called for its ratification. The debates in the Convention show that Congress would have been left at liberty, forthwith, to have prohibited the slave trade, both foreign and domestic, had it not been for the opposition of Georgia and South Carolina. They insisted upon the continuance of the trade for twenty years, and refused to come into the Union upon any other condition. Mr. Madison, a member of the Federal Convention, must be regarded, I suppose, as good authority on this subject. He said, in a speech in the Convention of Virginia, to which was referred the Constitution, that "the Southern States (an expression then applied exclusively to Georgia and South Carolina,) would not have entered into the Union of America with-

out the temporary permission of the slave trade; and if they were excluded from the Union, the consequences might be dreadful to them and to us. We are not in a worse condition than before. The traffic is prohibited by *our* laws, and we may continue the prohibition. I need not expatiate on the subject. Great as the evil is, a dismemberment of the Union would be worse. If these States should disunite from the other States for not indulging them in a temporary continuance of this traffic, they might solicit and obtain aid from foreign powers." So you see, sir, that the other ten States, in order to form the Union, were obliged to yield to the wishes of South Carolina and Georgia.

Luther Martin, of Maryland, moved in the Federal Convention of 1787, to amend the section in the Constitution relating to the slave trade, so as to allow a prohibition or tax on the importation of slaves.

"In the first place," he said, "as five slaves are to be counted as three freemen in the apportionment of representatives, such clause would leave an encouragement to this traffic. In the second place, slaves weaken one part of the Union, which the other parts are bound to protect; the privilege of importing them was, therefore, unreasonable. And, in the third place, it was inconsistent with the principles of the Revolution, and dishonorable to the American character, to have such a feature in the Constitution."—*Madison papers, 3d vol., p.* 1388.

George Mason, of Virginia, said in the same Convention, that—

"Slavery discourages arts and manufactures. The poor despise labor when performed by slaves. They prevent the emigration of whites, who really enrich and strengthen a country. They produce the most pernicious effects on manners. Every master of slaves is born a petty tyrant. They bring the judgment of Heaven on a country. As nations cannot be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects, Providence punishes national sins by national calamities. He held it essential, (he said,) in every point of view, that the General Government should have power to prevent the increase of slavery."

And in the Virginia State Convention for the ratification of the Constitution, he said the importation of slaves into the Colonies—

"Was one of the great causes of our separation from Great Britain. The augmentation of slaves weakens the States; and such a trade is diabolical in itself, and disgraceful to mankind. As much as I value a union of all the States, I would not admit the Southern States (South Carolina and Georgia) into the Union unless they agree to the discontinuance of this disgraceful trade, because it would bring weakness and not strength to the Union."—*Elliot's Debates on the Federal Constitution, 3d vol., p.* 452.

A few words, sir, on the section of the Constitution bearing on this subject. It is in the words following:

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation not exceeding ten dollars for each person."

The power of Congress over the domestic and foreign slave trade was suspended for twenty years only in the States *then existing*. In the new States, created after the adoption of the Constitution, the trade could be instantly prohibited. This section of the Constitution was framed with great care, and with *a design* not only to favor the gradual abolition of slavery, but to prevent its extension into new States thereafter to be created. And this, sir, I will prove by a brief reference to the debates in the State Conventions held for the ratification of the Constitution.

In the Convention of Virginia, opposition being made to this clause, because it might eventually encourage emancipation, Governor Randolph said:

"I hope that there is no one here, who, considering the subject in the calm light of philosophy, will advance an objection dishonorable to Virginia; that at the moment they are securing the rights of their citizens, an objection will not be started that there is a spark of hope that these unfortunate men now held in bondage may, by the operation of the General Government, be made free."

Mr. Tyler, father of the late President, in the same Convention zealously opposed this toleration of the slave trade till 1808. He would prohibit it immediately, saying:

"My earnest desire is, that it may be handed down to posterity that I oppose this wicked clause."

Mr. Johnson, in the same Convention, said:

"The principle of emancipation has begun since the Revolution. Let us do what we will, it will come round."

Mr. Mason, Mr. Ennis, and Mr. Dawson, all members of the Convention, expressed the same opinions, looking forward to the eventual and not very remote abolition of slavery. And in these opinions they were sustained by Washington, Jefferson, Madison, and a host of other statesmen holding a high rank in the "Ancient Dominion."

Luther Martin, a delegate from Maryland in the Federal Convention of 1787, said in the Convention of that State upon the Federal Constitution:

"We ought to authorize the General Government to make such regulations as may be thought most advantageous for the gradual abolition of slavery, and the emancipation of slaves which are already in the States."

Mr. Iredell, in the Convention of of South Carolina on the Federal Constitution, in speaking of this clause, said:

"When the entire abolition of slavery takes place, it will be an event which must be pleasing to every generous mind and every friend of human nature."

Mr. Galloway, in the same Convention, said:

"I wish to see this abominable trade put an end to. I apprehend the clause means to bring forward manumission."

In the Convention of Pennsylvania, Judge Wilson, who had been a member of the Federal Convention, said:

"I consider this clause as laying the foundation for banishing slavery out of this country. It will produce the same kind of gradual change as was produced in Pennsylvania. The new States which are to be formed will be under the control of Congress in this particular, and slaves will never be introduced among them. It presents us with a pleasing prospect that the rights of mankind will be acknowledged and established throughout the Union. Yet the lapse of a few years, and Congress will have power to extirpate slavery from our borders."

In the Convention of Massachusetts, Gen. Heath said:

"Slavery cannot be extended. By their ordinance Congress has declared that the new States shall be republican States, and have no slavery."

In the same Convention, Judge Daws said:

"Although slavery is not smitten by an apoplexy, yet it has received a mortal wound, and will die of consumption."

These declarations, which I could greatly multiply if time would permit, show that it was expected on all hands that slavery would, at no very remote period, cease to exist in all the States of the Union.

On the 13th of May, 1789, in the first Congress under the Constitution, the impost bill being under consideration, Mr. Parker, from Virginia, moved to insert a clause in the bill imposing a duty on the importation of slaves of ten dollars on each person:

"He was sorry," he said, "that the Constitution prevented Congress from prohibiting the importation altogether; he thought it a defect in the instrument that it allowed such a practice; it was contrary to the Revolution principles, and ought not to be permitted; but as he could not do all the good he desired, he was willing to do what lay in his power. * * * * * He regarded the traffic as inhuman, * * * and hoped Congress would do all that lay in their power to restore to human nature its inherent privileges, and, if possible, wipe off the stigma under which America labored. The inconsistency in our principles, with which we are justly charged, should be done away, that we may show, by our actions, the pure beneficence of the doctrine we hold out to the world in our Declaration of Independence."

Mr. Madison was in favor of Mr. Parker's proposition, and expressed his views in the following language:

"I conceive the Constitution, in this particular, was formed in order that the Government, whilst it was restrained from laying a total prohibition, might be able to give some testimony of the sense of America with respect to the African slave trade." * * * "It is to be hoped that, by expressing a national disapprobation of this trade, we may destroy it, and save ourselves from reproaches, and our posterity the imbecility ever attendant on a country filled with slaves."

"Every addition the States receive to their number of slaves," continued Mr. Madison, "tends to weaken and render them less capable of self-defence. In case of hostilities with foreign nations, they will be the means of inviting attack instead of repelling invasion. It is a necessary duty of the General Government to protect every part of their confines against danger, as well internal as external. Every thing, therefore, which tends to increase danger, though it be a local affair, yet, if it involve national expense or safety, becomes of concern to every part of the Union, and is a proper subject for the consideration of those charged with the general administration of the Government."—Vide Debates in the Congress of 1789, old series, 1 vol., p. 349 to 354.

If the views thus expressed by Mr. Madison be correct, it is the bounden duty of Congress to exclude slavery from the Territories of the United States. Nothing tending to weaken and render them less capable of self-defence should be allowed to exist within them. Territorial governments involve national expense, and therefore concern every part of the Union, and are proper subjects for the consideration of the General Government.

I will now, sir, pass to Southern opinion in regard to slavery, of a more recent date. In January, 1832, Mr. Randolph introduced into the House of Delegates in Virginia a proposition for the gradual abolition of slavery in that ancient Commonwealth.

The subject gave rise to an animated debate, which was conducted with great ability and eloquence by the speakers who took part in the discussion. The following are extracts from some of the speeches delivered on the occasion:

Mr. Bolling, of Buckingham, said:

"This is a grave and important subject; one that ought to be and will be considered. Its importance demands that it should be considered and debated here; and is not, as some gentlemen think, a reason that it should be passed in silence, and acted upon in secret. No, sir, our action should be calm and dispassionate, but open, bold, and manly. Sir, that it is an evil, a great and appalling evil, he dared believe no sane man would or could deny. Nor, sir, can it be denied that it deprives us of many of those advantages, facilities, and blessings which we should enjoy had we a more dense white population. That it is a blighting, withering curse upon this land, is clearly demonstrated by this very discussion itself.

"Notwithstanding eastern gentlemen had waxed so warm, there are many, very many in Eastern Virginia who had rather resign their slaves gratuitously than submit to the ills of slavery; many who had rather turn them loose and leave them behind, while they should seek a happier clime—a land alike a stranger to slaves and slavery."

Mr Marshall, of Fauquier, said:

"The utmost latitude of debate had already been tolerated, and no injury could now accrue from a temperate expression of his sentiments on the general question. He felt himself at liberty to say that he was opposed to slavery as a practical evil. He objected to slavery, not because it implies moral turpitude, or because it is a sin to be the owner of a slave. If it be a sin, let it fall on those who introduced the evil and have transmitted it to their offspring. * * Wherefore, then, object to slavery?

Because it is ruinous to the whites, retards improvement, roots out an industrious population, banishes the yeomanry of the country, deprives the spinner, the weaver, the smith, the shoemaker, the carpenter, of employment and support. Our towns are stationary, our villages almost every where declining, and the general aspect of the country marks the curse of a wasteful, idle, reckless population, who have no interest in the soil, and care not how much it is impoverished."

Mr. Chandler, of Norfolk:

"I took occasion to observe that I believed the people of Norfolk county would rejoice could they, even in the vista of time, see some scheme for the gradual removal of this curse from our land. I was desirous to see a report from the committee declaring the slave population an evil, and recommending to the people of this Commonwealth the adoption of some plan for its riddance."

Mr. Berry, of Jefferson:

"Sir, I believe that no cancer on the physical body was ever more certain, steady, and fatal in its progress than is this cancer on the political body of the State of Virginia. I admit that we are not to be blamed for the origin of this evil among us; we are not to be blamed for its existence now, but we shall deserve the severest censure if we do not take measures, as soon as possible, to remove it."

Mr. Faulkner, of Berkeley:

"Sir, there is one point in which I do most sincerely agree with those who are arrayed against me in this discussion. It is that the proposed inquiry is one of great delicacy and transcendent importance. The revolution which agitated this Commonwealth fifty years ago, great and important as it was, involved in its results but a change of our political relations with the mother country. This measure, should it prove successful—and that it must, sooner or later, no individual in this House can now reasonably doubt—must involve in its consequences a moral, physical, and political revolution in this State; a revolution which will be beneficially felt by every great interest in the Commonwealth, and by every slaveholding State upon this continent. I shall ever reckon it amongst the proudest incidents of my life that I have contributed my feeble aid to forward a revolution so grand and patriotic in its results. The idea of a gradual emancipation and removal of the slaves from this Commonwealth is coeval with the declaration of your independence of the British yoke. It sprung into existence during the first session of the General Assembly subsequent to the formation of your republican Government. It was proper; there was a fitness of things in the fact that so beneficent an object as the plan for the gradual extinction of slavery in this State should have been the twin offspring of that mind which gave birth to the bill of rights and to the act for religious freedom. A fact so honorable to the public spirit and humanity of that age, so worthy of the genius and expanded philanthropy of those with whom it originated, cannot be too often recurred to, nor too proudly cherished. Slavery, it is admitted, is an evil. It is an institution which presses heavily against the best interests of the State. Being thus injurious, have we not a right to demand its extermination?"

Mr. McDowell, of Rockbridge:

"We know that the blessings of our position and soil and climate are countervailed by the apathy of our public counsels, and by our exclusive reliance upon involuntary labor. Our interests and senses proclaim the progress of general decline; conscience and experience attest that slavery is its principal cause. Do we not contemplate Virginia justly when we regard her as meager, haggard, and enfeebled, with decrepitude stealing upon her limbs, as given over to leanness and impotency, and as wasting away under the improvidence and the inactivity which eternally accompany the fatal institution which she cherishes, and cherishes, too, as a mother who will hazard her own life, rather than part even with the monstrous offspring that afflicts her? If I am to judge from the tone of our debate, and from the concessions on all hands expressed, there is not a man in this body, not one perhaps that is even represented here, who would not have thanked the generations that have gone before us, if, acting as public men, they had brought this bondage to a close; who would not have thanked them, if, acting as private men, on private motives, they had relinquished the property which their mistaken kindness has devolved upon us. In this investigation there is no difficulty; nothing has been left to speculation or inquiry; for, however widely gentlemen have differed upon the power and the justice of touching this property, they have yet united in a common testimony to its character. *It has been frankly and unequivocally declared, from the very commencement of this debate, by the most decided enemies of abolition themselves, as well as by others, that this property is 'an evil;' that it is a dangerous property.*"

I have shown, Mr. President, at the hazard of making myself tedious to the Senate, that the agitation of the subject of slavery, with a view to effect its abolition, commenced in the South three-quarters of a century ago, and that Southern statesmen were the agitators. And I have also shown that no further back than 1832 the ablest men in Virginia did not hesitate to declare that property in slaves was an evil; that it was a dangerous property; and that it was a blighting, withering curse upon the land. Now, Mr. President, if these views in regard to slavery, expressed in the Legislature of Virginia, be correct—and allow me to say that they are so considered by the almost entire North—how can Southern Senators rise in their places and seriously urge us to aid them in introducing into California and New Mexico this evil, this dangerous species of property, this blighting, withering curse upon the land? These Territories are soon to become States of this Union, and is it not our bounden duty, while they are under our exclusive jurisdiction, to see to it that no element of weakness or of danger is introduced into them? Most certainly it is. Entertaining, then, the opinions I have expressed, we of the North have but one course to pursue, and that is to protect the Territories, if we can, from the intrusion of slavery.

I pass, Mr. President, to the second branch of my first proposition, namely, that the agitation of the slave question was forced upon the people of the North by the aggressions of the slave power upon their rights. South Carolina has been in the habit, since 1822, under a State law, of taking from Northern vessels colored seamen, citizens of Northern States, and imprisoning them while the vessel remains in port, and selling them into slavery to pay the jail fees, unless they are paid by the owner

or consignee of the vessel. I have the law under which these enormities have been committed before me, and the opinion of the Attorney General, Mr. Wirt, declaring it unconstitutional. The law reads as follows:

"Sec. 2. If any vessel shall come into any port or harbor of this State, from any other State or foreign port, having on board any free negroes, or persons of color, as cooks, stewards, mariners, or in any other employment on board of said vessel, such free negroes or persons of color shall be liable to be seized and confined in jail until said vessel shall clear out and depart from this State; and that when said vessel is ready to sail, the captain of said vessel shall be bound to carry away the said free negro or free person of color, and to pay the expenses of his detention; and in case of his neglect or refusal to do so, he shall be liable to be indicted, and, on conviction thereof, shall be fined not less than $1,000, and imprisoned not less than two months; and such free negroes or persons of color shall be deemed and taken as absolute slaves, and sold in conformity to the provisions of the act passed December 20th, 1820."

Yes, sir, our free citizens, if found on board of any vessel, in any port or harbor of South Carolina, guiltless of crime, save the color of their skin, "shall," says the law, "be deemed and taken as absolute slaves, and sold in conformity to the provisions of the act passed December 20, 1820. Shortly after the passage of this law, Mr. Justice Johnson, a native of South Carolina, and then a distinguished judge of the Supreme Court of the United States, in the case of a British colored seaman who had been seized and imprisoned under the law, said, "in regard to its unconstitutionality, it is not too much to say it will not bear an argument; and I feel myself justified in using this strong language from considering the course of reasoning by which it has been defended."

The proceedings of South Carolina are not only irritating, but exceedingly inconvenient to the North. The services of colored seamen are needed on board the vessel, and, being citizens of the Northern States, and "entitled to all privileges and immunities of citizens in the several States," their imprisonment, for no other crime than their color, is oppressive, unjust, and unconstitutional. And Massachusetts, regarding it in this light, and having experienced much inconvenience from the imprisonment of her seamen, sent one of her most respectable citizens (Mr. Hoar) to Charleston, South Carolina, for the purpose of making some arrangement to test the constitutionality of the law in question before the judicial tribunals of the country. And how, Mr. President, was the agent from Massachusetts received in Charleston? Why, sir, the moment he made known his business he was treated with great rudeness, and driven, with his accomplished daughter, by a mob from the city! South Carolina not only refused to test the validity of her law before her own tribunals, but insulted and abused the agent who, in a friendly manner, applied to her to do it. These acts of outrage and violence were calculated to irritate the people of the North and put them on the defensive. They regarded the law of South Carolina as an aggression on their rights, and believed it to be unconstitutional, and all they desired to do was to test its validity before the judicial tribunals of the country.

What reasonable objection could the people of South Carolina have had, if they had been disposed to deal justly with the North, to the arrangement proposed by Massachusetts? If their law turned out to be constitutional, it would stand; if unconstitutional, it ought to fall. But South Carolina did not stop here in her aggressions upon Northern rights and the rights of Northern freemen. In December, 1824, another law was passed depriving all free colored persons, imprisoned under her act of 1822, of the writ of *habeas corpus*. So you see, sir, that our imprisoned seamen have no remedy for the grievous wrongs inflicted upon them. No process can be sued out by them or their friends to test the constitutionality of the law under which they are restrained of their liberty. Hopeless bondage is their condition, unless redeemed by the master or consignee of the vessel to which they belong.

But, Mr. President, South Carolina is not alone in her acts of aggression on Northern rights. Louisiana and Alabama have laws of a similar character; and, if I have not been misinformed, an agent sent from the North to New Orleans to make some arrangement to test the constitutionality of the law of Louisiana, was obliged to leave the city to save himself from personal violence. The South, I know, contend with great confidence that these laws are constitutional; and the North, with equal confidence, contend that they are unconstitutional. Here, then, is an issue formed between the two sections of the Union upon a great constitutional question. And how, I ask, can it be settled, but by the judicial tribunals of the country? And is it too much for the North, in the spirit of kindness, to ask for such settlement?

But I pass, sir, to notice briefly other grievances of which the North complain. The great right of petition, secured by the Constitution to the people of all the States, has been not only abridged, but virtually denied to the people of the North by a standing rule of the House of Representatives, adopted by Southern votes. No petition touching the subject of slavery or the slave-trade in the District of Columbia, or in the Territories of the United States, could, under the rule, be received, read, or referred. This proceeding in the House of Representatives was regarded by the people of the North as a direct attack upon the right of petition—a right without which no people can be free. They knew that petitions touching the subject of slavery, and praying the exercise of all the power Congress possessed for its abolition, had been received and considered in the House of Representatives from 1789 up to the period of the adoption of the rule. And they knew, too, that Congress had in numerous instances exercised the power of excluding slaves from the Territories of the United States.

No wonder, then, that the attention of the North was directed to the subject of slavery and its power in the councils of the nation. No wonder that excitement and agitation followed the denial of a right so dear to the people. Mr. President, if the wise men of the South had assembled in convention to devise ways and means to irritate and provoke the people of the North, and force them into the discussion of the slave question, they could not have hit upon a plan so well calculated to accomplish their object, as the rule of the House of Representatives to which I have referred. It was a bold attempt, not only to stifle the voice of the people on a great question of human rights, but to close the

only channel through which they could approach the Government for a redress of grievances. And, like every other attempt to silence the complaints of the people, against what they regard to be acts of injustice and oppression, it increased them a thousand fold. Yes, Mr. President, thousands and tens of thousands of sober-minded men, who, up to that time, held no sympathy with the little band of abolitionists in the North, rushed to their standard in vindication of the great right of petition. I well remember the excitement that prevailed in my own State when the news arrived that petitions praying for the abolition of slavery and the slave-trade in the District of Columbia, and in the Territories of the United States, had been excluded from the halls of Congress. Public meetings were held, exciting addresses were delivered, and resolutions were passed, declaring that the aggressions of the slave power had become intolerable, and must be resisted.

But, Mr. President, the aggressions of the South upon the rights of the North did not stop here. The mails of the United States were violated to search for what the South called incendiary publications. Yes, sir, an espionage was established over the post-offices of the country, to prevent the circulation of such publications and communications as did not suit the taste of slaveholders. Notwithstanding the highly penal laws for the security of all matter committed to the mail, many packages from the North were broken open in the slave States, and destroyed before they reached the persons to whom they were directed. The North protested in the most solemn terms against this violation of their rights, and claimed the protection of the law for their correspondence. But in vain; slavery had paralyzed the arm of the Government, and no remedy for the evil could be applied. These, Mr. President, are some of the aggressions of the South on the rights of the free States. But we have no idea of flying into a passion and threatening to secede from the Union because injustice has been done us. No, sir, we mean to remain in the Union, and under its flag contend for our rights.

And now, sir, if in the contest that has been for years going on between the two sections of the country, slavery has been wounded and crippled by the North, who provoked the quarrel? Who made the first assault? Who struck the first blow? Southern Senators should seek for truthful answers to these questions, before uttering another complaint against the North for agitating the subject of slavery.

I pass, Mr. President, to what the Senator from South Carolina, (Mr. CALHOUN, now deceased, and whose death we all sincerely deplore,) said, in his last speech in this Chamber, might be regarded as the great and primary cause of discontent on the part of the South. That is, the fact that the equilibrium between the two sections in the Government, as it stood when the Constitution was ratified and the Government put in action, has been destroyed, not by the operation of time, but by the legislation of Congress. This, sir, is the great reason why, in the opinion of the Senator, the South can no longer remain in the Union with safety and honor. With all respect for the opinion of others, I must be allowed to say that no equilibrium ever existed between the two sections of the Government, that is, between the free and the slave States. The statistical statement presented by the honorable Senator himself shows that the free States have had a majority of the population, and a majority in both branches of Congress, from 1789 up to the time the Senators from Texas took their seats in this Chamber, in February, 1846. Now, Mr. President, strange as it may seem, the slave States, all the while in the minority in Congress, and in the electoral colleges, have controlled the legislation of the Government, and directed the destiny of the country, from 1800 up to the present time. They have had the President and a majority of the Cabinet forty-eight years out of sixty, and the Speaker of the House of Representatives two-thirds of the time since the Government went into operation. They have always had a majority of the judges of the Supreme Court and of foreign ministers; and a much larger share of the officers of the army and navy than their population entitled them to; and they have also had, and still have, more than their share of the heads of bureaus and clerks in this city. But this is not all, sir. They have been from time to time increasing their power in the halls of Congress. They have created four new slave States out of territory within the jurisdiction of the Old Thirteen, to wit, Alabama, Mississippi, Kentucky, and Tennessee, now represented on this floor by eight Senators, and on the floor of the other House by thirty-two Representatives. But, sir, with this increase of strength the slave States were not contented. They looked beyond the jurisdiction of the United States for foreign territory to increase their power. Louisiana was acquired from France in 1803, and out of it three slave States have been created, now represented on this floor by six Senators, and on the floor of the other House by ten Representatives. Next came Florida from Spain, in 1819; and out of that territory another slave State has been created, adding two Senators to this body, and one Representative to the other branch of Congress. Well, sir, have we no free States created out of territory acquired since the peace of 1783? Yes, sir, we have one, and only one—Iowa, with two Senators here, and two Representatives in the other end of the Capitol. Four slave States, with eight Senators and eleven Representatives, to one free State, with two Senators and two Representatives! This surely looks as though the slave States could take care of themselves.

But, Mr. President, there is yet another acquisition of foreign territory made by the South, which deserves special notice. I mean the acquisition of Texas, out of which one slave State has been created, and provision made for four more States of the same character. But few persons in the country know, to this day, how that wonderful work of Texas annexation was finally accomplished by slave power. I will tell you, sir, how it was done. But, before speaking of the *modus operandi*, I desire to say a word in regard to the territory belonging to the United States out of which it was expected new States would be created. When the scheme for the annexation of Texas was started, we had thirteen free and thirteen slave States. Florida was the only Territory belonging to the Union out of which another slave State could be created; and this the South had sagacity enough to discover. On the other hand there was Wisconsin, and all the country we acquired by our Louisiana purchase north of 36° 30', for free States. So it was apparent that the slave States must be limited to fourteen, while the free States would continue to increase, and in a few years, in all human proba-

bility, reach the number of twenty, and perhaps twenty-five. In this posture of affairs Texas was regarded by the South as a desirable acquisition, and Southern politicians set themselves to work to obtain it. Now, sir, for the *modus operandi*. A treaty was negotiated, ceding the country to the United States for the avowed object of extending and perpetuating slavery. The Northern Democratic press denounced the measure with great violence, and called on Democratic Senators from the free States to oppose it. Well, sir, the treaty was transmitted to the Senate for ratification by President Tyler in 1844, and Northern Democratic Senators voted against it, and it was rejected. Yes, sir, *then* the Northern Democracy in this Chamber could not endure the idea of adding to the Union four or five more slave States by the acquisition of Texas; *then* the voice of the people, their masters, was sounding in their ears, and they dared not disobey it. The rejection of the treaty, however, was but a temporary defeat of the measure. Southern politicians soon devised another mode of annexation that proved more successful. They carried the measure into the Baltimore Convention, assembled in May, 1844, to nominate candidates for President and Vice President, and there made it a party question. Among the resolutions passed by the Convention was one in favor of the re-annexation of Texas, and it went out to the country as a part of the Democratic creed. Mr. Van Buren, the most prominent candidate before the Convention for the nomination, was rejected because he had written a letter against annexation; and Mr. Polk, who had expressed an opinion favorable to the measure, received the nomination. Well, sir, Mr. Polk, as we all know, was elected President of the United States by the votes of the Northern Democracy.

Soon after the Baltimore Convention the tone of the Northern Democratic press changed. Nothing was heard about the extension and perpetuation of slavery. The acquisition of Texas was declared to be a measure of great national concern, and designed to extend the area of freedom. Well, sir, in December, 1844, after the Presidential election, Congress assembled, and a joint resolution for annexing Texas to the United States passed the House of Representatives, and was sent here for the concurrence of the Senate. What course Democratic Senators from the North would take on the question was a matter of some doubt One Southern Senator (Mr. Bagby) and three or four Northern Senators, of the Democratic party, doubted the constitutionality of the House resolution, and expressed a determination not to vote for it. In this condition of affairs Mr. Walker, of Mississippi, then a member of the Senate, offered an amendment to the House resolution in the words following:

"That if the President of the United States shall, in his judgment and discretion, deem it most advisable, instead of proceeding to submit the aforesaid resolution to the Republic of Texas, as an overture on the part of the United States for admission, to negotiate with that Republic," &c.

The amendment was adopted, and Northern Democratic Senators, after obtaining a solemn pledge from both the acting President and the President elect, that the House resolution should not be presented to Texas as an overture for admission, voted for the amended resolution, and it passed by a vote of 25 to 26. Now, Mr. President, the honorable Senator from Illinois (Mr. Douglas) says there is no inconsistency in the votes given by Democratic Senators from the North touching the question of annexation. They voted against the treaty, he says, in 1844, because its avowed object was the extension and perpetuation of slavery; and they voted to annex the same country to the United States in 1845, because it was a great national measure, designed to extend the area of freedom. Both reasons assigned by the Senator for the votes given are no doubt very good ones; but I must be allowed to say that I am unable to discover how the area of freedom can be extended by creating and admitting into the Union new slave States. It looks to me, I must confess, a little more like extending the area of slavery than the area of freedom.

The brief history I have given of the annexation of Texas, shows that the slave power manage all questions touching its interest with great skill and dexterity; and I am sorry to say it also discloses some transactions any thing but honorable to the parties concerned in them. I allude, sir, to the pledge given by the acting President and the President elect to certain Northern Democratic Senators, that the House resolution, if passed by the Senate with Mr. Walker's amendment, should not be presented to Texas as an overture for admission, but that the country should be acquired, if acquired at all, by negotiation and treaty. I have said enough, sir, on this branch of the subject to show that the slave States are not quite so weak and powerless as they have been represented to be. Equilibrium, or no equilibrium, they have had things pretty much their own way for the last half century. I do not wish to be understood as casting the least degree of censure upon Southern politicians for the skill and dexterity with which they manage their affairs. No, sir; I find no fault with the unanimity of their action, or with the adroitness they display in arranging their party machinery, to bring in a portion of the North to the support of their measures. If they move their men upon the political chessboard with more skill than we do, it is our fault, not theirs.

But, Mr. President, it is time to pass to the legislation of the Government, said to have been so injurious to the South. The first in the series of acts complained of is the ordinance of 1787. That measure is not chargeable to the North. It was concurred in by all the States in the Confederacy. South Carolina gave it her unanimous support. Indeed there was but one vote against it, and that was from the North. The interest manifested in support of the ordinance was stronger in the South than in the North. Surely, then, it furnishes no good cause for discontent on the part of the South. Nor has it, in any way or manner, retarded the growth or prosperity of that section of the country. It has added to the Union five magnificent free States, now in the full enjoyment of the highest degree of prosperity. And, sir, in my humble judgment, if the South had followed the example of the North, and substituted free for slave labor, and manufactured her own great staple, she would at this day have been the Manchester of America.

A brief history of the ordinance will show that the Southern States had no desire to extend slavery beyond its then existing limits. In the Congress of 1784, the first after the peace of 1783, a committee, consisting of Mr. Jefferson of Virginia, Mr. Chase of Maryland, and Mr. Howell of Rhode

Island, reported a plan for the government of the Western Territory. Mr. Jefferson was the author of the document. It contained the following provision: "After the year of 1800 of the Christian era, there shall be neither slavery nor involuntary servitude in any of the said States, otherwise than in punishment of crimes, whereof the parties shall have been duly convicted to have been personally guilty."

On the 13th of April the above clause was stricken out; not, however, upon the ground that the slaveholding States desired to occupy the territory with their slaves, or that the power to enact the prohibition was doubted. No such objections were urged against the measure. Slavery was regarded on all hands as a great moral and political evil, and all desired its abolition as soon as it could be brought about with safety. The provision was objectionable to the States tolerating slavery, because it contained no provision for the restoration of fugitive slaves escaping into the Territory. This is apparent from the vote of the States on the proposition. Mr. Speight, of North Carolina, moved to strike it out; and on the question, shall the words moved to be strickon out stand? the yeas and nays were required by Mr. Howell, and ordered. Seven States, viz: New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania, voted yes; Maryland, Virginia, North Carolina, and South Carolina, voted no. Georgia and Delaware were not represented in the vote. So the proposition, not receiving the requisite number of votes, was stricken out. The non-slaveholding States voted against the motion to strike out, and the slaveholding States for it.

On the 16th of March, 1775, Rufus King, a member from Massachusetts, moved the following: "There shall be neither slavery nor involuntary servitude in any of the States described in the resolve of Congress of the 23d of April, 1784, otherwise than in the punishment of crimes, whereof the party shall have been personally guilty; and that this regulation shall be an article of compact, and remain a fundamental principle of the Constitutions between the thirteen original States and each of the States described in the said resolve of the 23d of April, 1784." On the motion to commit the foregoing proposition, eight States voted in the affirmative, to wit: New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Maryland; four in the negative—Virginia, North Carolina, South Carolina, and Georgia.

This proposition Maryland was willing to adopt, but it was objectionable to the other slave States, because it made no provision for the restoration of their fugitive slaves.

On the 13th of July, 1787, the ordinance was again referred to a committee, composed of Mr. Carrington of Virginia, Mr. Dane of Massachusetts, Mr. R. H. Lee of Virginia, Mr. McKean of South Carolina, and Mr. Smith of New York.

The committee reported the ordinance, with the following article:

"There shall be neither slavery nor involuntary servitude in the said Territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid."

This article, thus framed, passed unanimously, every State voting for it.

The adoption of the ordinance was regarded as a settlement of the question of slavery extension for all time to come. It fixed upon a line, with the consent of the South, never to be obliterated, beyond which slavery should not pass. The slaves States set up no claim to carry slaves into the territory that was the common property of the Union, and the free States consented to allow the reclamation of fugitive slaves, *by any one of the original States*, within the territory. This was the bargain consummated between the parties under the Confederation, and it was in no way annulled or impaired by the Constitution. The proviso to the ordinance was, in substance, though somewhat enlarged, introduced into the Constitution. The limitation upon slavery was omitted, because all the territory belonging to the Union had been secured to freedom by the ordinance. It is quite clear to my mind, that the creation of another slave State was not expected by the Congress of 1787, for the right to reclaim fugitive slaves was confined to the *original States*. If the extension of slavery into new States had been expected, the right of reclamation would not have been confined to the States *then existing*. But, sir, it is time to pass to another branch of the subject.

The next act in the series of which the South complains, is the system of revenue and disbursements adopted by the Government. Now, sir, if our revenue system has proved injurious to the people of the South, they have no cause of complaint against the North. The earliest and most ardent supporters of the system were from the South; its most determined opponents from the North.

If there be any truth in history, the system was forced upon the country by the South, against the almost unanimous vote of New England. The revenue bill of 1816, the first containing the minimum principle of valuation, and designed to protect the cotton interest, was reported by Mr. Lowndes, of South Carolina, and supported in a speech of great ability by Mr. Calhoun, then a member of the House of Representatives. The revenue bill of 1824, increasing the duties on imports, was also carried by the South against the votes of New England. Protection to domestic manufactures, then, having become the settled policy of the Government, by Southern votes, and the people of the North, relying on the faith of the legislation to which I have referred, having invested $300,000,000 in manufacturing capital, have a right to insist on the continuance of the policy. Yes, sir, without a word of complaint, or a murmur of discontent on the part of the South, the people of the North have a right to put forth all their energies to uphold and sustain the system.

I pass, Mr. President, to the Missouri compromise, the third act in the series complained of by the South. For that measure the North are not responsible. It was carried by Southern votes, and it should not now be conjured up as a cause of discontent on the part of the South. The distinguished Senator from Kentucky, (Mr. CLAY,) in his very able and eloquent speech, delivered on the 5th of February last, says:

"I take this occasion to say, that among those who agreed to that line (the Missouri compromise line) were a majority of Southern members. My friend from Alabama, in the Senate, (Mr. KING,) Mr. Pinkney, from Maryland, and a majority of the Southern Senators in this body, voted in favor of the line of 36° 30′; and a majority of the Southern members in the other House, at the head of whom was Mr. Lawrence himself, voted also for that line. I have no doubt that I did also; but, as I was Speaker of the House, and as the Journal does not show what was the Speaker's votes, except in cases of a tie, I am not able to tell with certainty how I actually did vote; but I have no earthly doubt that I voted in common with many other Southern friends for the adoption of the line of 36° 30′."

This, I suppose, sir, is evidence enough to show that the Missouri compromise line was a Southern and not a Northern measure. There were in the House of Representatives but seventeen votes from the free States for it.

The fourth and last act in the series, causing discontent on the part of the South, is the exclusion of slavery from the Oregon Territory. This measure, I admit, was carried by Northern votes; but it could not have become a law without the approval of a Southern President. It was in the power of Mr. Polk to have defeated the measure by his Executive veto, if he had been disposed so to do. The inhibition of slavery in the Oregon Territorial bill was the first victory ever won by freedom over slavery in the halls of Congress. And, in my humble opinion, if that bill had been defeated, we should have heard of no wide-spread discontent in the South, of no "belief of the people in the Southern States that they cannot remain, as things now are, consistently with honor and safety in the Union." The South opposed the bill with great zeal and vehemence, and for a great length of time, but it commanded a majority of votes in both branches of Congress, and, according to the forms of the Constitution, became the law of the land.

I have, I believe, Mr. President, briefly noticed all the causes of discontent mentioned in the speech of the honorable Senator from South Carolina; and, in my humble judgment, they do not furnish the slightest grounds for disunion. The people of the North have causes of complaint of a much more substantial character against the South, but they have never thought of disunion as a remedy for their grievances. No, sir, they regard the Union as the greatest blessing they enjoy, and no aggression upon their right, however flagrant, will weaken their attachment to it. But the discontent in the South, it is said, has brought the Union into imminent danger, and the question has been asked, how can it be saved? The Senator who propounded the question condescended to answer it. He says the North, and the North alone, in one way, and only in one way, can save it, and that is, "to do justice by conceding to the South an equal right in the acquired territory, and to do her duty by causing the stipulations relative to fugitive slaves to be faithfully fulfilled; to cease the agitation of the slave question, and to provide for the insertion of a provision in the Constitution, by an amendment, which will restore to the South, in substance, the power she possessed of protecting herself before the equilibrium between the sections was destroyed by the action of this Government."

Is it true, Mr. President, that the preservation of the Union depends upon the performance of *all* these conditions on the part of the North? If it does, I despair of it; its days are numbered, and the hour of darkness will soon be upon us. We claim no exclusive right to the territories belonging to the Union. They are open alike to the North and the South. But the local institutions of neither section of the country can be carried into them. The banker of the North, who issues his bills by virtue of a law of the State in which he resides, cannot carry his bank charter to California or New Mexico, and issue his bills there. Nor can the planter of the South, who holds his negroes in bondage by virtue of the local law of his State, carry them into the territory of the United States, and hold them in bondage there. The people in both sections of the country are on a perfect equality as to their rights in the territory belonging to the Union. That slavery is a *status* unknown to the common law, and contrary to the law of nature, and exists only by positive legislative enactment, is a question no longer open to discussion. It has been settled over and over again by the highest judicial tribunals in both the slave and the free States.

The people of the North, as far as I know, stand ready faithfully to fulfil all the stipulations of the Constitution relative to fugitive slaves. But, sir, a difference of opinion exists between the two sections of the country as to the measure of duty on the part of the free States. We stand upon the decision of the Supreme Court of the United States, in the case of Prigg against Pennsylvania, and maintain that our true measure of duty is there laid down, and we conform to it. Congress having regulated the mode of reclamation by the act of 1793, the States have no constitutional power to legislate on the subject. The whole matter is under the exclusive jurisdiction of the Federal Government. The States, therefore, have nothing to do but remain passive. They may, however, if they choose, prohibit their officers from acting under the law of 1793. And now, sir, if we in all things conform to the decision of the Supreme Court of the United States, touching the reclamation of fugitive slaves, have the Southern States any just cause of complaint against us? I apprehend not. But unconstitutional laws, it is said, have been passed in the free States, not only impeding, but rendering it almost impossible for the master to reclaim his fugitive slave. Well, sir, it is quite possible that some of the Northern States, provoked and irritated by the imprisonment and sale into slavery of their free colored citizens in the ports of the South, for no crime but their color, have passed laws designed to protect their own citizens, which have turned out to be unconstitutional. But, sir, the moment the decision of the Supreme Court of the United States, in the case of Prigg vs. Pennsylvania, became known to the country, all State laws in any way conflicting with it were promptly repealed. The great mass of the people in the free States, in my humble judgment, stand ready to fulfil *all* their constitutional obligations to the South, in regard to the surrender of fugitive slaves. They regard the Constitution as the supreme law of the land, and no conscientious scruples will deter them from faithfully carrying out all its provisions. Sir, if there were an article in that sacred instrument that I could not

sustain and carry out, without doing violence to my conscience, I would retire from public life, and pray God to forgive me for having sworn, at your desk, to support it.

In regard to the agitation of the slave question, I have but a word to say. That will, no doubt, cease, when the aggressions of the slave power upon the rights of the North cease, and not before. But I will say here, that the subject of slavery, as it exists in the States of the Union, we do not agitate. It is a subject with which we have nothing to do. We are in no way responsible for it, and we say nothing about it. But the propriety of sustaining slavery in the District of Columbia, the expediency of introducing it into the free Territories of the United States, are questions in which we have an interest, and we do discuss them, and we shall continue to discuss them, until they are settled by the constitutional tribunals of the country; and, when settled, we shall acquiesce in the decision, without any threats of secession or disunion.

But, Mr. President, conceding to the South (what has never been denied her) an equal right in the acquired territory, ceasing the agitation of the slave question, and faithfully fulfilling all constitutional stipulations relative to fugitive slaves, cannot, it is said, save the Union. The North must go further and "provide for the insertion of a provision in the Constitution, by amendment, which will restore to the South, in substance, the power she possessed of protecting herself before the equilibrium between the sections was destroyed by the action of this Government!" In other words, the North, in order to save the Union, must provide for the insertion of a provision in the Constitution, by amendment, which will enable the slave States, a minority in both branches of Congress, to control the legislation of the Government, and direct the destiny of the country for all time to come! This, sir, to say the least of it, is a bold proposition. It is a direct call upon the majority of the sovereign people to surrender the political power of the country into the hands of the minority! It proposes to change the entire character of the Government, and make it what its founders never intended it should be, a pro-slavery Government. The discontent on the part of the South grows out of her inability to carry slavery into the free Territories of the United States, for the purpose of increasing her political power in the halls of Congress. And is it reasonable, after the creation of nine slave States since the organization of the Government in 1789, to call on the North to provide for an amendment of the Constitution so as to enable the South to plant slavery in California and New Mexico, where it now has no existence? No, sir, *such* a call for *such* a purpose is both unwise and unreasonable, and will never, no, never, be listened to by the North. If the slave States prefer disunion and all the horrors of a civil war to the Constitution as it is, they must try them and abide the consequences.

But Mr. President, it would be well for Southern politicians, who boast of slavery as an element of strength in time of war, and talk of raising armies to disperse Congress, and make the North feel their strength, to examine with great care the military statistics of the war of independence, before they lift a hand against the integrity of the Union. They may find facts there disclosed any thing but encouraging to the enterprise in which they are threatening to engage. The whole number of troops furnished the continental armies during the Revolution was 261,014; of these the four New England States furnished 147,441, more than one-half of the whole number. The three Middle States, New York, New Jersey, and Pennsylvania, furnished 56,576. The six Southern States, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, furnished 56,997. Of those furnished by New England, Massachusetts supplied 68,000! twelve thousand more than the six Southern States I have mentioned. Surely, Massachusetts occupies a proud position. Well did her distinguished Senator exclaim, "There she stands! Look at her! She needs no eulogy!" Of the troops furnished by the Southern States, South Carolina supplied 3,872, and Georgia 2,697!

Thus you see, sir, that while the slave States discharged their whole duty in the military efforts of the Revolution, the Middle and New England States far exceeded theirs. The proportion

of troops to the population in the New England States was ..... 1 to 7
For the Middle States ..... 1 to 16½
And in the six Southern States ..... 1 to 24

It is no part of my purpose, sir, to undervalue Southern effort in the great struggle for independence; or to claim for New England and the Middle States honor that do not belong to them. The 600,000 slaves in the Southern States, when the war broke out, furnish, no doubt, the reason why more men could not be spared for the continental army. A military force was necessary at home to restrain the slaves from rebellion. Surely, then, the objections against slavery urged by Mr. Madison and others, in the Federal and State Conventions, were well founded. It does weaken the States in which it exists, and renders them less capable of self-defence. In Mississippi, South Carolina, and Georgia, the number of slaves exceeds that of the white population. And now, I ask, are these States as strong and as capable of self-defence as they would be if slavery did not exist within them? Certainly not. They are greatly weakened and endangered by the character of their population; and in case of a war of invasion, most of their military force would be needed at home to hold their slaves in subjection, and the whole burden of defending the country would be thrown upon the other States.

But, sir, I will now leave this branch of the subject, and pass to notice the application of California for admission as a State of the Union. By our treaty with Mexico we are bound to admit California into the Union at the proper time, (to be judged of by Congress,) and the question is, has the proper time arrived? The treaty of peace was exchanged and ratified at Queretaro on the 30th day of May, 1848, and from that day to this Congress has provided no government whatever for California. She has been left without law or order, to shift for herself. She was entitled to a government until arrangements could be made for her admission as a State of the Union; and it was the bounden duty of Congress to provide one for her. That duty has been neglected, and California has done what she had a right to do, called a Convention, adopted a constitution, republican in its character, and formed a government for herself. She now comes with her constitution in one hand, and the treaty of Guadalupe Hidalgo in the other, and knocks at our door for admission. We do not bid her come in, but

rudely turn her away, because she has protected herself from outrage, bloodshed, and murder, without our consent. All the quibbling of special pleading is resorted to to exclude her from the sisterhood of States. It is objected, 1st. That the present Administration sent out an agent (the honorable Thomas Butler King) to influence the people to call a Convention and adopt a constitution excluding slavery. This is denied and not proven. Mr. King says, in his report on California, that he had no secret instructions, verbal or written, from the President, or any one else, what to say to the people of California on the subject of slavery; and that it was never hinted or intimated to him that he was expected to attempt to influence their action in the slightest degree on that subject. And he further says that he never did attempt to exert the least degree of influence over the people of that country on the subject of slavery. In the second place, it is objected that no act of Congress was passed authorizing the people of California to call a Convention and form a constitution. Eight out of the fifteen States admitted since the adoption of the Constitution were received into the Union without any such legislation on the part of Congress. In the third place, it is objected that no census was taken before the Convention was called and the constitution adopted. That was unnecessary. The only object of a census is to show that the Territory has the requisite population for a State; and that may be proved any other way as well as by a census. Many of the States heretofore admitted have been received without proving the number of inhabitants by a census. The ratio of representation was fixed in 1842 at 70,680; but the law establishing it expressly provides that any State having an excess beyond the moiety of the ratio shall be entitled to an additional representative. A population, therefore, of 106,021 entitles California to two representatives. The evidence before Congress upon this subject satisfies my mind, beyond a reasonable doubt, that California has a population more than sufficient to entitle her to two representatives. The memorial of the Senators and Representatives from California to the Congress of the United States shows that the population of the State on the 1st of January, 1850, was over 107,000—and it has greatly increased since that time. Texas, with a population of less than 100,000, was admitted with two representatives; and why, I ask, should California, with a population one-third larger than Texas, be excluded? Is a slave State entitled to admission with two representatives with a less population than a free State with the same representation? I apprehend not. It is objected, in the fourth place, that the State is too large. I know, sir, that it is a large State. I should be better pleased if it were smaller. I think it comprises territory enough for three free States; and that we ought to have six Senators instead of two from it. But it is not half as large as Texas, and no objection was raised on the part of the South to her admission on the ground that we were creating too large a State. All these objections, Mr. President, relate to mere matters of form—there is no substance in them. They may and should be waived. The real objection on the part of the South is, in my humble opinion, concealed. Southern Senators do not like to come out and say that the exclusion of slavery is the ground of their opposition, for it would be a repudiation of their own doctrine set forth in a resolution introduced by Mr. Calhoun in February, 1847. The resolution is in the following words:

"*Resolved*, That it is a fundamental principle in our political creed, that a people, in forming a constitution, have the unconditional right to form and adopt the government which they may think best calculated to secure their liberty, prosperity, and happiness; and in conformity thereto no other condition is imposed by the Federal Constitution on a State, in order to be admitted into this Union, except that its constitution shall be 'republican,' and that the imposition of any other by Congress would not only be in violation of the Constitution, but in direct conflict with the principle on which our political system rests."

President Polk, in his message of December 5, 1848, speaking of the organization of Territorial Governments for California and New Mexico, and the power of Congress to legislate on the subject of slavery, says:

"Whether Congress shall legislate or not, the people of the acquired Territories, when assembled in convention to form State constitutions, will possess the sole and exclusive power to determine for themselves whether slavery shall or shall not exist within their limits."

This doctrine of Mr. Calhoun and Mr. Polk the people of California adopted, and have acted upon it; and now come here in good faith, with just such a constitution as those gentlemen and the entire South said they had a right to form, and every obstacle that the ingenuity of man can devise is thrown in the way of their admission into the Union. It has been said, over and over again in this Chamber, that California has a large majority of Senators in her favor. If so, why not admit her at once? Why delay her for the settlement of vexed questions with which she has no connexion? What has her admission to do with the question of freedom or slavery in the Territories? What has it to do with the capture of fugitive slaves? with the boundaries of Texas? or with slavery in the District of Columbia? It seems to me that every fair-minded man must say at once that California has nothing to do with these questions; and that she has a clear right to stand upon her own merits, unembarrassed by any other subject. It is unjust both to California and the Senate to tack the Territorial bills and the bill for the settlement of the Texan boundary on to the bill for the admission of California. There are many Senators who would vote for the admission of California in a bill by herself, who will not vote for her connected with the other measures to which I have referred. I can never vote for Territorial bills without a clause in them inhibiting slavery. I am no believer in the doctrine that slavery is excluded from California and New Mexico "by the law of nature, of physical geography, the law of the formation of the earth." No, sir; slavery once existed there, and will, unless prohibited, in my judgment, exist there again. Southern Senators now insist upon the peculiar adaptedness of slave labor to the development of the mineral treasures of the country. Hear their language. On the 23d of February, 1849, Mr. Foote, of Mississippi, said:

"No one, acquainted with the vast mineral resources of California and New Mexico, and who is aware of the peculiar adaptedness of slave labor to the development of mineral treasures, can doubt

for a moment that were slaves introduced into California and New Mexico, for the purpose of being employed in the mining operations there in progress, and hereafter, perhaps, to be carried on to an extent conjectured of by few, their labor would result in the acquisition of pecuniary profits not heretofore realized by the most successful cotton and sugar planters of the country."—*Appendix to Cong. Globe, p.* 262.

The Hon. Senator from Virginia, in his able speech, says that—

"We have heard here from various quarters, and from high quarters, and repeated on all hands—repeated here again to-day by the honorable Senator from Illinois, (Mr. SHIELDS)—that there is a law of nature which excludes the Southern people from every portion of the State of California. I know of no such law of nature—none whatever; but I do know the contrary, that if California had been organized with a territorial form of government only, and for which, at the last two sessions of Congress, she has obtained the entire Southern vote, the people of the Southern States would have gone there freely, and have taken their slaves there in great numbers. They would have done so, because the value of the labor of that class would have been augmented to them many hundred fold. Why, in the debates which took place in the Convention in California which formed the constitution, and which any Senator can now read for himself, after the provision excluding slavery was agreed upon, it was proposed to prohibit the African race altogether, free as well as bond. A debate arose upon it, and the ground was distinctly taken, as shown in those debates, that if the entire African was not excluded, their labor would be found so valuable that the owners of slaves would bring them there, even though slavery were prohibited, under a contract to manumit them in two or three years. And it required very little reasoning, on the part of those opposed to this class of population, to show that the productiveness of their labor would be such as to cause that result. An estimate was gone into with reference to the value of the labor of this class of people, showing that it would be increased to such an extent in the mines of California that they could not be kept out. It was agreed that the labor of a slave in any one of the States from which they would be taken was not worth more than one hundred or one hundred and fifty dollars a year, and that in California it would be worth from four to six thousand dollars. They would work themselves free in one or two years, and thus the country would be filled by a class of free blacks, and their former owners have an excellent bargain in taking them there."

The honorable Senator from Mississippi (Mr. DAVIS) insists that slavery is a valuable institution in a soil and climate like Mexico; and that slave labor would be profitable in California and New Mexico. And he further insists that slavery never has been legally abolished in Mexico; that it is now a slave country.

But this is not all. The following advertisement appeared in the Mississippian of the 7th March, 1850, published at the city of Jackson, Mississippi:

"CALIFORNIA—THE SOUTHERN SLAVE COLONY.—Citizens of the slave States, desirous of emigrating to California with their slave property, are requested to send their names, number of slaves, and period of contemplated departure, to the address of 'SOUTHERN SLAVE COLONY,' Jackson, Mississippi.

"All letters, to meet with attention, must be *post paid.*

"It is the desire of the friends of this enterprise to settle in the richest mining and agricultural portions of California, and to secure their uninterrupted enjoyment of slave property. It is estimated that by the 1st of May next the members of the Slave Colony will amount to about five thousand, and the slaves to about ten thousand. The mode of effecting organization, &c., will be privately transmitted to actual members.

"Jackson, Feb. 24th, 1850."

Now, Mr. President, who, I ask, with these declarations of Southern Senators and this advertisement before him, can say there is no danger of the introduction of slavery into California and New Mexico? I cannot say it. No, sir, I believe there is danger, and I am quite willing to re-affirm an ordinance of nature, to re-enact the will of God to avoid it, and secure freedom to the Territories.

If there be an ordinance of nature or a law of God excluding slavery from California and New Mexico, it excludes it from the whole habitable globe. Yes, sir, from the whole of it:

"Earth hath no clod
Its Maker meant should not be trod
By man, the image of his God,
Erect and free."

But governments, it is said by the Committee of Thirteen, must be forthwith established for New Mexico and Utah. New Mexico, the honorable chairman says, is under military rule—under a government administered by a lieutenant-colonel. Well, sir, that may be true, and the government not a very bad one. It is not a very desirable government, I admit; but it must remain until something better can be established in its place. What says the President upon the subject? In his message of January 24th, 1850, he says, that Texas has advanced a claim to a very large portion of the most populous district of the Territory, and that it remains for Congress to devise some mode for its adjustment. He thinks it inexpedient to establish a territorial government over the country until the pending controversy with Texas is settled, especially as the people of the Territory still enjoy the benefit and protection of their municipal laws, originally derived from Mexico, and have a military force stationed there to protect them against the Indians. And he further says that it is undoubtedly true that the property, lives, liberties, and religion of the people of New Mexico are better protected than they ever were before the treaty of cession. Surely, Mr. President, there seems to be no pressing necessity for a territorial government for New Mexico at this session of Congress. She appears to be in the full enjoyment of her rights, and they seem to be tolerably well protected. There is, I think, great wisdom and forecast in the views taken of the subject by the President. The disputed boundary between Texas and Mexico should be adjusted, if it can be, before we establish a

government over the Territory. But, sir, the President saw another difficulty in the way of a territorial government for New Mexico; and that was the very difficulty in which we are now involved. He apprehended that the slavery question would come up to embarrass our proceedings and excite our passions, and he desired to avoid it. He knew, as we all know, that the slavery question would prevent the passage of territorial bills through the two Houses of Congress, and he thought it inexpedient to present them. And in this, in my humble judgment, he was right. His policy was to let the people of the Territories decide for themselves whether or not they would have slavery, and not embarrass Congress with the exciting subject.

Mr. President, the Committee of Thirteen complain that the Executive has made war upon their plan of adjustment. It may be so, but I have seen no evidence of it. He, no doubt, adheres to his own plan, but that is not war on the plan of the committee. The only objection I have heard from the committee to the plan of the President is, that it does not go far enough. He proposes, they say, to heal but one wound, and leave four others bleeding. Sir, he proposes to heal all the wounds from which there is any immediate danger. If the fugitive slave question and the slave trade in this District can be regarded as wounds, they have been bleeding for fifty years without any great injury to the Republic. Another bleeding wound mentioned by the distinguished Senator from Kentucky is in the process of healing, by the application of the remedy recommended by the President. New Mexico has held a convention, formed a constitution excluding slavery, and will soon be knocking at our door for admission into the Union; and when she becomes one of the States of the Confederacy, the question of boundary between her and Texas will be removed from Congress to the Supreme Court of the United States, where it properly belongs, and where it should be finally settled.

In regard to Utah, I have but a word to say. I desire to know a little more about the Mormons of that country before I vote to give them a government of any kind. They voluntarily left the United States, and took up their residence in a foreign country, and established a government of their own. We have acquired the country in which they reside; and I am quite willing they should, for the present, remain undisturbed under their own government. Is there any prospect, Mr. President, that we shall succeed in adopting a plan of adjustment better than the one recommended by the Executive? We have been engaged more than three months in the discussion of the committee's plan, and the prospect of its success cannot be very flattering to its friends. Suppose it should fail; what will be done then? The five bleeding wounds, about which we have heard so much, will remain unhealed. Why, sir, we should be thrown back upon the plan of the President. California must be admitted, as she ought to have been three months ago, unconnected with any other measure. Who, then, will be responsible for the loss of time and the suspension of the ordinary business of Congress, occasioned by this measure of adjustment, as it is called? Sir, I leave this question for the country to answer, and pass to another matter.

On the subject of the surrender of fugitive slaves, I have said that, in my opinion, the people of the North stand ready to fulfil all their constitutional obligations to the South on that subject; and I say again, such is my belief. If the law of 1793 is not sufficient to protect the rights of the South, amend it; but amend it in such manner as will insure its execution. A law against the moral sense of the community where it is to be executed will always be a dead letter. Give the fugitive a trial by jury, and the law will be executed, and faithfully executed, too. No question can be more important than that of freedom or slavery; and it ought to be settled by a jury of the country, before the alleged fugitive is delivered over to the claimant as his slave. Under such a law, the master would have no difficulty in obtaining possession of his slave, if he proved, 1st, that he was a fugitive from labor; 2d, that he owed the labor by the laws of the State from which he fled; and, 3d, that the labor was due to the claimant. A verdict against the fugitive, on such proof, would be satisfactory to the whole country, and the master would return unmolested with his slave. I am utterly opposed to the bill upon the subject reported by the honorable Senator from Virginia. If it should become a law it would be of no use to the South. The difficulty that would attend its execution would render it valueless. It would sleep a dead letter on the statute book. And, sir, the bill reported by the Committee of Thirteen is, in my judgment, equally objectionable. If a trial by jury is to be allowed at all, it should be had in the State where the claim of ownership is made. The claimant should prove his right to the man before taking possession of him for any purpose whatever. The bill introduced by the distinguished Senator from Massachusetts (Mr. WEBSTER) ought to be satisfactory to the South. It secures to the alleged fugitive a trial by jury in the State where he resides when claimed as a slave. And what reasonable objection, I ask, can be urged against such trial? It will be attended with no great expense; and if no good cause can be shown for delay, a jury will be immediately empannelled for the trial of the case. The controversy will be promptly settled, and, in my judgment, in a manner satisfactory to the parties in interest. The oath required of the alleged fugitive should, I think, be stricken out of the bill. I am opposed to the multiplication of oaths. We require a great number now, and I had much rather decrease than increase them. If the person claimed as a slave desires a trial by jury, he should have it unconditionally. He should not be required to make oath that he is not a fugitive from labor, in order to secure it. He should have it as a matter of right.

I have but a word to say at this time in regard to the creation and admission into the Union of new States out of Texan territory. The mode of annexation was, in my judgment, an open, palpable violation of the Constitution, and was so considered at the time by the ablest Southern Senators on this floor. Texas, however, is in the Union, and, as far as she is concerned, the question is settled. The contract of annexation, though void between the parties, has been *executed* by them, and it cannot now be annulled. But the admission of new States, to be formed out of the Territory of Texas, is an unsettled question. "New States," says the joint resolution, "of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the

consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution." In the first place, no new State can be formed without the consent of Texas—and, in the second place, when the consent of Texas is obtained, and the new State formed, it must come into the Union "under the provisions of the Federal Constitution." The Constitution does not make it imperative upon Congress to admit new States. "New States *may* be admitted by Congress into this Union" is its language. The expediency or inexpediency of the measure is to be passed upon, and the new States admitted or excluded, as Congress may think proper. There is nothing, I insist, in the joint resolution annexing Texas to the United States, binding Congress to admit new States, if their admission should be deemed inexpedient. The whole subject is open to Congressional discretion. The language of the joint resolution is, that the new State or States formed out of Texas *shall* be entitled to admission *under the provisions of the Federal Constitution.* That is, they shall be admitted if Congress shall think expedient to admit them, and not without. There is, in my judgment, no public faith pledged on the subject. Congress is as free to admit or exclude a State from Texas as from any other section of the Union. But, Mr. President, if I am mistaken in the construction I have put upon the joint resolution, the fraudulent manner in which it was forced through the Senate absolves me from all obligations to vote for the admission of new slave States formed out of Texan territory. All contracts, bargains, and agreements tainted with fraud are null and void, and I will do no act or thing to uphold or sustain them.

Now, Mr. President, I ask again, why connect the admission of California with all these exciting and embarrassing questions? What has she done to deserve such treatment? The distinguished Senator from Kentucky (Mr. CLAY) said in his speech the other day that one year ago California, New Mexico, and Utah stood on the same ground—all Territories of the United States; and that California had made a runaway match, taken most of the patrimony, and now stands upon her dignity and turns up her nose to her sisters, New Mexico and Utah.

Mr. President, California has made no runaway match; we forced her to our embrace at the point of the bayonet, and now an attempt is made to force her to another embrace for which she has no taste. Yes, sir, she must aid in carrying the enslaved negroes of the South into New Mexico and Utah, or provide for her own support and protection. But it is said the question of slavery in the Territories must be settled, and California can be used to bring about a compromise upon the subject. Well, sir, what if she can?—is it just, is it fair, is it honorable to use her for such purpose? She has excluded slavery from her own borders, and has no desire to force it upon her sisters, New Mexico and Utah. Strong appeals have been made to the North to come forward in an amicable spirit and agree upon some plan of compromise, that will quiet the fears and apprehensions of the South, and restore peace and tranquility to the country. Sir, the many sacrifices of opinion and feeling already made by the North to the peculiar interests of the slave States, ought to satisfy them that we harbor in our bosoms no unfriendly feelings towards them. We desire their prosperity, and will do all we can, without a sacrifice of principle, to advance their interests. "The unity of government which constitutes us one people" is as dear to us as it is to them. We regard it as they do, "a main pillar in the edifice of our real independence, the support of our tranquility at home, and our peace abroad." But, Mr. President, anxious as I am to remove all causes of discontent on the part of the South, I cannot consent to compromise slavery into the free Territories of the United States. I shall be compelled, therefore, inasmuch as the bill contains no clause excluding slavery from the Territories for which it proposes to establish governments, to vote against it.

But, Mr. President, there is another provision in the bill to which I can never yield my consent. I refer to the proposition to pay Texas blank millions of dollars for the relinquishment of her claim to that portion of New Mexico lying on the east side of the Rio Grande. I had occasion, two years ago, to examine the claim of Texas to the left bank of the Rio Grande, and became satisfied that it could not be sustained; that it was wholly unfounded; and that it is my opinion now. The argument I then made upon the subject may be found in the appendix to the Congressional Globe, 1st session, 30th Congress, and I rely upon it now to sustain the opinion I have announced. It was my purpose to reproduce it on this occasion, but I am too much exhausted to read it, and I shall, therefore, waive the discussion of this branch of the subject for the present.

Finally, Mr. President, I object to the bill, because it is, in my judgment, deceptive in its character. It will disappoint the expectations of either the North or the South. Northern Senators support it because they believe the Mexican law abolishing slavery is now in force in the Territories, and that slavery cannot exist within them without positive law to authorize it. Southern Senators support it because they believe the Mexican law abolishing slavery is not in force. They maintain that the moment we acquired the country the Constitution, by its own inherent force, extended over it, and abrogated the Mexican law abolishing slavery, and that they have a right, under the provisions of the bill, to take their slaves into the Territories, and hold them as property. Now, sir, I cannot consent to leave this great absorbing question in doubt. I can vote for no bill that is not clear and explicit upon the subject—that does not, in express terms secure freedom to the Territories.

SPEECH OF MR. COOPER, OF PENN.

ON

THE COMPROMISE BILL.

IN SENATE, *Saturday, June* 29, 1850.

The Senate having under consideration the bill for the admission of California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and northern boundaries—

Mr. COOPER said: In the present state of my health, and under different circumstances, I would have preferred to remain silent, and have contented myself with a simple vote upon the important and deeply absorbing questions now pending in the Senate. Having no expectation, and not even entertaining a hope, of being able to shed any new light upon these questions, I would gladly have persevered in the silence which I have observed from the beginning of the discussion. It is no grateful task to speak on a subject exhausted of all its novelty; and duty, and not inclination, prompts me to do it. Worn out as the subject is, wearisome as it has become, I can scarcely hope for the attention of the Senate whilst I endeavor to present the reasons which will govern me in voting for the bill. But as I deem it due, both to my constituents and myself, that my reasons for doing so should be known, I must beg the indulgence of the Senate whilst I endeavor to present them; and I shall strive to show my appreciation of its indulgence by occupying as little of its time as will suffice for the purpose. From information derived from various sources, I am satisfied that a great misapprehension prevails in the country in relation to the character of this measure, and that pains have been taken to increase such misapprehension, and to ensure, in advance, the condemnation of every member of Congress who shall dare to give it his support. Men, Northern men, who supported the Clayton compromise, or who were at least silent as to its effects, denounce this measure as iniquitous, and as involving an abandonment of every principle dear to Northern freemen. To support this measure is "treason;" treason to the President, who has proposed a plan of adjustment different from this; and treason to the cause of human freedom, for which the pains and penalties of outlawry, if not political death, are denounced. Especially is this the case in relation to every Whig. What punishment is reserved for Democratic "traitors" I do not know; probably their continued exclusion from office, its emoluments and honors—a grievous infliction in the estimation of those who have constituted themselves judges in this matter. The loss of popular favor seems to be regarded, by the class of men to whom I have just referred, as the direst of all calamities that can befall a public man. Conscience violated, sacred duties neglected, self-respect immolated at the shrine of a base ambition, might be by such esteemed sacrifices; but they would be regarded as trivial in comparison with the loss of popularity.

Mr. President, I do not despise public favor. I am as sensible to it as others; and, like others, I have sought the distinction which it confers. But, in doing this, I have not abdicated my own judgment, my own self-respect, or the right to think and act according to their dictates. To surrender these would be to surrender all, every thing that makes public life desirable, or the public servant useful and respectable. I am not so constituted as to be able to do this. On a subject of great concern to the country, I cannot help but think; and thinking, my mind voluntarily decides, and, according to its decision, I must act, if I act at all. It is a necessity of my moral constitution to do so. But, sir, I repeat that I do not pretend to be insensible to public favor. On the contrary, I prize as highly as any one the esteem and confidence of my constituents. Yet if the performance of what I regard to be a duty to the country should involve the loss of their favor, which I have had the good fortune to enjoy, I can only express my submission to the deprivation, and say, in the language of Horace—

"Laudo manentem; si celeres quatit
Pennas, resigno quæ dedit." * *

But, Mr. President, I am sure that the support of this measure will involve no such sacrifice. The people of Pennsylvania, whom I partly represent upon this floor, are deeply, devotedly, cordially attached to the Union, and anxious for the restoration of harmony amongst all its members; and whilst they love the Union for itself and for the glorious future which it promises, they will not be forgetful that their own interests and the interests of their children are bound up in its preservation and in examining this measure, as they will examine it, in connexion with others that have been proposed, before passing judgment upon it, they will find that though in every respect it may not be what they could have most wished, it is, nevertheless, the best which was practicable under the circumstances. The adoption of this measure involves no violation of national faith; the neglect of no duty which we are bound to perform; and when it is properly understood, it will be regarded as

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more satisfactory to the people of the free States than the plan which has come to be looked upon, but without reason, as its antagonist. I refer to the plan of the President of the United States.

But before I proceed to the discussion of the questions which are involved in the bill before us, I desire to notice some of the arguments which have been advanced by the honorable Senator from Massachusetts (Mr. Davis) who has just taken his seat. He will pardon me if I say—I do it with all respect—that his speech seemed to me to be designed to put some person, or some class of persons, in the wrong. That there was no intention on his part to do this, I am willing to admit; but the tendency of his remarks was not calculated, in my judgment, to illustrate the measure now under consideration, and to make its provisions plain and appreciable to the country, but to show that certain persons were in a position in which they could not justify themselves, and in which the country, or a portion of it at least, would not sustain them.

Mr. Davis, of Massachusetts. Will the Senator allow me to say, that if he supposes I alluded to him, or to any one with whom he acts, or had any such specific object as he mentions, he is entirely mistaken. I meant to do nothing but use fair arguments.

Mr. Cooper. I know very well that the Senator did not design wrong to any one, and I so stated; but yet, in the fervor of advocacy of the peculiar views which he maintained, he used language susceptible of a construction such as I have referred to. I will now advert to some of his remarks. In the first place, he declares that the supporters of the compromise—which he says is not a "compromise" but a "concession"—have asserted that the Wilmot Proviso, or the ordinance of 1787, is a mere abstraction. Now, sir, I have heard no supporter of this measure assert that the Wilmot Proviso is an abstraction.

Mr. Davis, of Massachusetts. It is called so in the report of the committee.

Mr. Cooper. I will show presently what is said of it in the report. In its application to the Territories in question the Wilmot Proviso is regarded by some as unprofitable and useless, because they hold that slavery is as effectually excluded by the Mexican laws, the character of the country, and other circumstances, as it would be by the proviso itself. Therefore it is that they have spoken of it as an abstraction. Nobody that I have heard in the course of this discussion has said that the Wilmot Proviso would not be practical and operative if applied under circumstances in which the necessity for it had not been already superseded either by laws which have existed as long as the earth has existed, or by laws that were enacted by the countries to which the Territories belonged, and which continue to operate in them. This is the view that has been taken of it. But the honorable Senator from Massachusetts finds great difficulty about these laws. He says that the honorable chairman of the Committee of Thirteen (Mr. Clay) gave it as his opinion that the laws of Mexico are now in force in the Territories, and that slavery being inconsistent with these laws, cannot exist there; and that other distinguished lawyers and Senators have maintained the same opinion in the course of the discussion upon this subject. But the difficulty of my honorable friend arises from the fact, that on the other side of the Chamber an opinion adverse to that expressed by the honorable chairman and others has been announced. He is therefore at a loss, in this conflict of opinions, as expressed on the one side and on the other, what to believe. Has not the Senator examined the question of law? He seems to be familiar with the measure and with all the consequences of it. Has he not, then, in informing himself on the subject, examined the question of law? And if he has, how has his own judgment decided? With the honorable chairman of the committee and those who have maintained as their opinion that slavery does not exist in the Territories, or with those who hold the contrary opinion? He ought to have decided it one way or the other; for it is a question of vast importance, and ought not to have escaped his attention in an examination of the measure such as would authorize him to pronounce with confidence upon its merits.

But, sir, I will not here discuss the question whether slavery is excluded from the Territories or not. In the course of the remarks which I propose to submit, I shall, if my strength permit, examine it somewhat at large. But before proceeding further, I desire to call the attention of the Senator from Massachusetts to a question of fact. He has not examined the question of law, or, if he has, his mind is balancing between the two adverse opinions which have been expressed in regard to it. But what does he say of the other causes and circumstances, which it has been alleged are likely to exclude slavery from these Territories? Has he looked at it in this respect? It is well known that there are millions of acres of land, as fertile as the sun ever shone upon, in the great valley of the Mississippi which the foot of industry has not trodden, and which is awaiting the hand of cultivation to make it fruitful. This land is open to those who choose to employ slave labor, and it is well adapted to the production of all those articles on which slave labor has been successfully employed. Nor is it likely, when there are so many millions of acres lying in a country in which the institution of slavery is not only secure, but popular, that the owners of slaves will pass by this fertile and inviting region, theirs already, to carry them into the almost inaccessible and comparatively barren territory of New Mexico? Why, sir, would it not argue a kind of infatuation on the part of our Southern friends to do this? Do we not know, from intelligence received from New Mexico through slaveholders and others, that it is a territory not at all adapted to the growth of that kind of products in which slave labor can be profitably employed? Even if the sentiment prevailing in the Territory were favorable to slavery, it is quite improbable that it would ever be carried thither. I repeat, sir, that it is not at all likely that slavery will ever be carried there. I shall say nothing in this place of the character of the soil, of its geographical formation, and of the likelihood of the exclusion of slavery by reason of those irrepealable laws which were referred to by my honorable friend from Massachusetts, (Mr. Webster.) But, sir, do we not know that men are governed in a great measure by the profit or loss which will attend their enterprises? This being the case, is it likely that those who have slaves profitably employed in the Atlantic States, or in the States in the valley of the Mississippi, would carry them to a country re-

mote from markets, and altogether without adaptation to their peculiar pursuits? We know how universally and deeply profit and loss enter into all human calculations, and how unlikely it would be that men should remove their slaves from a country where their labor is productive, and the markets for their labor good and convenient, to a country practically, from its remoteness, without a market, and in other respects little inviting to the master. Does not the Senator see that the doubt his own mind finds it so difficult to solve, will be the great security against the introduction of slavery into these Territories? Masters will hardly carry their slaves into a Territory in which they will be likely to be free as soon as their feet touch its soil. But the Senator himself seemed to realize some of the improbability of slavery being established in a country so little adapted by nature, and its remoteness from markets, to the cultivation and sale of slave products. In examining the subject, however, he has discovered what he supposes to be a solution of this difficulty; he thinks New Mexico is a country that would be well adapted to the raising of slaves for other markets. Sir, it seems to me to be the most unlikely place in the world in point of adaptation to a purpose of that kind.

My friend, the honorable Senator, did not express the sentiment in the language in which it was conveyed in the other House; but the same idea is prominent. But let us look at its aptitude for the purpose. How, in the first place, would the slaves be fed? It is not a grain country; nor could a market be found for sugar, cotton, rice, or tobacco, if they could be produced. These articles would not bear transportation, either to the east or to the west, where a market could be found for them. Next, would the locality be secure for such a purpose? These Territories are bounded on the north by Oregon, free by law; on the west by California, likely soon to be a free State; on the east by the Indian territory, an excellent hiding place, I am told, for fugitive slaves; and on the south by Mexico, a free jurisdiction. When we look at the question in the light of profit and loss, is it likely that New Mexico and Utah, or either of them, would be found to be as advantageous for the purpose as the Senator supposes? I cannot think so. We have heard those who have lived in New Mexico, and are acquainted with the country and its capabilities, pronounce a judgment at variance with the Senator's views in this respect, and every other. All of them, without exception, I believe, whether slaveholders or others, have expressed the same opinion; and I understand that the objection to the application of the ordinance of 1787 to that territory is not so much on account of its practical operation, as of a dislike to be excluded from these Territories by positive law. They regard it as a gratuitous wrong to be expressly excluded, when by nature and the operation of other causes they are excluded already. In this I have not agreed with them; and only refer to it as a fact in the case. But the honorable Senator from Massachusetts declares that the ordinance of 1787 is practical and operative, and that in all the Northwest Territory it has accomplished its work effectually; and he points to the five States that have grown up out of these Territories—all of them free States. I am not disposed to dispute with the Senator concerning the efficacy of the ordinance of 1787. I have subscribed to it in obedience to my own judgment, and the will of my own State, and have united with the honorable Senator in voting for it; but was it not the sentiment of the people of these Territories that prevented the introduction of slavery into the States which have been formed out of them, rather than the ordinance? Was it not the same sentiment which abolished slavery in Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, and which promises to abolish it in Delaware at no very distant day, that kept the Northwest Territory free from slavery, instead of the practical operation of the ordinance of 1787? In my judgment it was; because if they had chosen to admit slavery after they became States, I presume there is no power in the Government which could have prevented them from doing so, even if there had been a majority disposed to exercise such a power. I do not suppose that there is any power in the Government to prevent a State from choosing its own institutions and introducing slavery, if the people should think proper. But the Senator has stated that the character of a State is formed in its infancy, during its territorial condition; and that if the Territories are populated from free States, they remain free after they become States. This was rather in conflict with his argument, which gave all the credit of freedom in the Territories to the ordinance of 1787. But he has stated as a fact that which, according to my information, derived from various sources, is not precisely so; and that is, that the whole of these five States were originally populated from the free States. Now, so far as Indiana and Illinois are concerned, the greater part of their population was derived from the States of Kentucky, Tennessee, North Carolina, Maryland, and Virginia, and a great majority——

Mr. Davis, of Massachusetts. Did the Senator understand me to say that the Northwest States were peopled from the free States? I said no such thing.

Mr. Cooper. Then I stand corrected. I certainly understood the Senator to say that the character of a State was formed in its incipiency, and that as the population of a Territory was derived from the North or from the South, so would its character for freedom or slavery be, when it came to establish a State Government. If I was mistaken, why I stand corrected.

Mr. Davis, of Massachusetts. I simply meant to assert that, if the population resident there, without reference to where it came from, was a free population throughout the territorial existence, then it would come in as a free State.

Mr. Cooper. I had misunderstood the Senator, then; but enough of that. The Senator from Massachusetts has introduced the Nashville Convention into this discussion in a most extraordinary way, and, as it seemed to me, for a most extraordinary purpose. Does not the Senator know that, so far as the acts of that convention were concerned, they were opposed to the settlement of these distracting questions on the principle proposed by the bill now under consideration in this body? He condemned that body without stint; and if I were to set myself up as a judge in the matter, I should condemn it too. I would condemn it, because it has made itself the ally of gentlemen acting along with the Senator from Massachusetts in opposition to this bill. I have no sympathy with that body whatever There will be found none in my acts. But it will be found, I think, if we judge from their acts, that

there is some sympathy between the Senator from Massachusetts and the members of that convention. I know it will be said that their opinions are entirely at variance; but, nevertheless, those who are engaged in a common object always have more or less of sympathy, and we have seen it manifested more than once on this floor in the course of this discussion. The Senator who has just taken his seat, and the convention which has lately adjourned, are both aiming at a common object—the defeat of the compromise, and the prevention of any adjustment of existing difficulties; at least, such is the tendency of their acts. Now, I beg the Senator not to put me into such political company as that. I know that the gentlemen who assembled at Nashville are highly respectable, men of great talent and consideration in the country, many of them animated by patriotic motives, but all of them, as I conceive, acting clearly on a mistaken principle. I must beg not to be placed alongside of these gentlemen, who were assembled at Nashville for the purpose, in effect, of making war upon this measure; but the gentleman from Massachusetts may well take his stand alongside of them; and if there be any thing odious in such a juxtaposition, let him remember that it is of his own seeking that attention has been called to it. But what to me seemed equally strange and unkind on the part of the Senator was to bring up the Cuban expedition, and throw it into the scale against the compromise. Why was this done? What connexion, let me ask, is there between the honorable chairman of the Committee of Thirteen and General Lopez? or between the members of the Senate who are supporting this measure and the companions of General Lopez? None, sir; none. But, from the course of the Senator's argument, one would be led to suppose that he was anxious to find some degrading connexion in which to place the supporters of this measure. This is so only in appearance, I know. His motives are upright; and he had no desire, I am sure, to place any one in a false position, or in an unwarrantable or odious connexion. He designed wrong to no one. He denies it, and I am not willing to impute to gentlemen motives which they repudiate. But is it not strange that the supporters of this measure should be brought into connexion with these marauders who were engaged in attempting to disturb the peace of the country? Is it not a strange connexion in which to place them? Sir, I had thought, from much that was said by the honorable Senator in the course of the discussion, that he ascribed to those engaged in the support of this measure honest and patriotic motives; that he believed the aim of all was to give peace to a distracted country; to heal the wounds which have been inflicted, and which threaten to inflame and fester, and at last to result in death, if not cured by some potent remedy. Sir, let us act fairly towards each other, at any rate. I am willing to ascribe the most sincere and patriotic motives to the Senator from Massachusetts, and those who act with him; and I shall do nothing to present him or them in a false or improper attitude before their constituents. But I beg the same justice at their hands. I do not wish to be classed, in any portion of the country, with those who were engaged at Nashville, making war upon this measure, or with Lopez and the marauders and robbers who were engaged in making war upon a neighboring and friendly nation. It is quite probable from the attempts which are being made at home to mislead and deceive my constituents, that I shall have enough to do to satisfy them as to the propriety of my course, without having my actions misrepresented here, or a false connexion assigned to me.

But the Senator from Massachusetts says that this is no compromise; that it is only a concession. Sir, I thought concession entered into every compromise; that it was a necessary ingredient of it; that the meaning of the term itself implied concession. But the gentleman says that it is all concession on the part of the North, and that the North is called upon to yield up every thing—the ordinance of '87 and all. This is a mistake; it is called on to forego it—not to yield it, for it never possessed it. But, sir, here is a strange similarity of opinion—certainly a great similarity of expression—between the Senator and the gentlemen engaged at Nashville, a part of whose proceedings he read to the Senate this morning. He says that the North is asked to concede every thing, and that the South gains every thing by the compromise. The Nashville gentlemen say that the South will be degraded and dishonored by the adoption of the compromise; that it means nothing except the exaction of new concessions from the South, which has already made so many! What a wonderful similarity is there in the language of the Senator from Massachusetts and his co-laborers at Nashville. According to one, the North is degraded; according to the other, the South is robbed and dishonored; but both concur in making war upon the compromise and its friends. It is strange that such a similarity of object should exist between parties so widely asunder; and it would be stranger still if truth were not found between these two extremes.

But the Senator from Massachusetts thinks there is no serious difficulty in relation to boundary between Texas and New Mexico. He says that for two hundred years, or nearly, there was an unsettled boundary question pending between Rhode Island and Massachusetts, and that no serious inconvenience resulted from it. Now, sir, I have been hardly pressed in court in my day, and may have used illustrations that were somewhat far-fetched; but I do not think I ever went quite so far as the Senator from Massachusetts has done in this instance. What analogy, what resemblance is there between the question which existed for so many years between Massachusetts and Rhode Island, and that which now exists between New Mexico, or, if you choose, between the United States and Texas? In the last mentioned case there is an area of thousands of square miles in dispute; angry passions have been excited, and threats have been made of a speedy resort to arms, on the one side and the other, to settle it. There was no such thing in the case of Rhode Island and Massachusetts. There was a little strip of territory, of very little value to either party, and only necessary to be settled for the benefit of those living upon it, and to ascertain the jurisdiction of the respective States, in order that their laws might be enforced. There were, as we all know, difficulties of a slight and trivial character, arising out of the unsettled condition of this boundary; but they never threatened to involve the peace and safety of the States between whom the dispute existed. Justice was often obstructed, and sometimes frustrated, by the uncertainty existing in relation to this boundary, which was eventually set-

tled by the Supreme Court of the United States. But, sir, this dispute might have remained unsettled two hundred years more, and the peace of the country not have been endangered. Blood would not have been likely to flow, nor would there have been danger of a bloody collision between the citizens of the States, or between either of the States and the United States. Sir, there is a vast difference between the two cases; and it seems to me the Senator from Massachusetts must have been hard set for illustration when he resorted to this one.

Mr. President, before certain recent developments of the condition of things in New Mexico, I would have been willing to adopt the plan proposed by the President in his message of the 21st of January last. I would have done so, however, not because I believed it would settle finally the difficulties which distract the country, or even temporarily, in a manner favorable to the North, but because I am always ready to defer, as far as possible, to recommendations coming from a source so eminent. A principal object of the plan of the President, as appears from his message to which I have just referred, was to get rid of the Wilmot Proviso, and the conflict and exasperation to which he feared it would give rise. I appreciate his motives; they were patriotic, and designed to prevent sectional strife and alienation. But since his plan was communicated to Congress in January last, circumstances have greatly changed; so much so, that if he were now called on to devise one, it would, in all probability, be different, and much more comprehensive. At that time, opposition to the admission of California had not manifested itself with the violence it has done since. There was then no well-grounded apprehension that her admission, if insisted on alone, might be altogether defeated; nor was the danger of a violent, and perhaps bloody, collision between New Mexico and Texas foreseen. There had been no formal attempt on the part of Texas to extend her jurisdiction over Santa Fé and other parts of New Mexico, far beyond the limits of her actual occupation; nor had there been at that time any allegation of a design to introduce slavery into New Mexico amidst the confusion and chaos prevailing there, in consequence of the want of a government with power and inclination to prevent it. Every passing day has demonstrated the necessity of providing governments for these Territories, especially for that of New Mexico. Her people have never ceased to ask for it; and if it had been granted to them in time, the impending collision between them and Texas would in all probability have been avoided. One of the main causes of danger is the exasperation of the people of New Mexico, who have been brought into direct collision with the agents of Texas, sent thither for the purpose of establishing her jurisdiction. If there had been a government in New Mexico, negotiation, as is usual in such cases, would have been resorted to and exhausted before recourse was had to violence. And the respective governments, representing their people, would have stood between them to prevent violence. But as there is no government in New Mexico recognised or respected by the people—none, at least, which they can rely on to defend their territorial rights, or treat with Texas in respect to them—they have been brought of necessity into direct collision with her. Hence the danger that exists.

It is true, at least such is the report, that the people of New Mexico have formed a State government, and intend to ask admission into the Union. If they have done so, it was in despair of the establishment of a Territorial government, which they greatly preferred, and which, I am obliged to say, was much better adapted to their condition than a State government, and fraught with far fewer difficulties. The American population of New Mexico is very small in number, amounting, probably, to less than two thousand souls—the remainder being composed of Mexicans, Mestizos, and Indians. Nor is it likely the white population of the Territory will be greatly increased for years to come. The tide of immigration, from the inducements which California, the El Dorado of the nineteenth century, holds out to the adventurer, is setting in that direction; and the comparatively barren and uninviting territory of New Mexico will in all probability remain unoccupied, to a great extent, for many years to come. But suppose she were to present herself for admission as a State to-morrow, is it probable she would meet with a better or more cordial reception than California has done? To the admission of New Mexico there would be some serious objections. To the admission of California there are none that, in my judgment, are substantial.

I have stated, Mr. President, that a primary object of the plan of the President was to prevent the conflict which he was apprehensive would arise from the persistance of the North in the application of the Wilmot Proviso to bills providing governments for this and other Territories acquired from Mexico. In this respect the object of his plan has failed already. The Wilmot Proviso has been insisted upon. It was proposed and has been voted upon; and the conflict in regard to it, as far as the Senate is concerned, is over. The motives, therefore, most of them at least, which actuated the President at the time he submitted his plan to Congress, have ceased to operate; and besides this, as I have attempted to show, many facts have been developed since, which prove the necessity of a much more comprehensive plan than that which he has proposed. But there are those who insist on the adoption of this plan, practicable or impracticable, right or wrong; and who denounce as enemies to the President, and traitors to the Whig party, if not to the cause of human freedom, every one who dares to yield it his support. How long, sir, is it since opposition to Executive interference in matters of legislation has ceased to be a prominent article in the Whig creed? How long is it since such interference was a theme of denunciation on our part? And how often was it repeated during the last Presidential canvass, that the functions of Congress had been usurped by, or with slavish tameness yielded to, the Executive, until the latter had come to exercise, in advance, a power ten times more formidable than the veto—the power by which the adoption of a favorite measure was secured, and the passage of an obnoxious one defeated? This, sir, was an argument which I used myself, and which I heard used by others, against the Democratic party on many occasions during that canvass. I was opposed to such interference, because I believed its tendency was to debase the Legislative branch of the Government, and render it subservient to the Executive. I thought it was wrong that

the influence and patronage of the Executive should be used so as to constitute a veto in advance upon the action of Congress. The Constitution gives to the Executive the right to veto bills subsequent to their passage; and this I considered sufficient to guard the Executive against the encroachments of the Legislature, and to protect the country against the effects of hasty, inconsiderate, or unconstitutional legislation. I resisted it when our opponents were in power, not through factious motives, but because I thought it was wrong; and my opinions having undergone no change, I cannot support it now that our friends are in power, merely because they are so. Wishing to preserve my own consistency, and to see the Whig party preserve its consistency, on this subject and every other, I have chosen to resent the attempts which are now being made to coerce Congress, by threats and intimidation, into the support of the plan of the Executive.

But, Mr. President, I would be doing injustice to President Taylor, if I did not expressly exonerate him from any design to interfere improperly with the action of Congress on this or any other subject. He is a firm, honest, consistent man, and has had no participation whatever in the attempt to coerce Congress into the support of his views. He has uttered no threats, and regards it as no crime that members of Congress differ with him in this respect. This attempt at coercion and intimidation is the work of others. He has given it no countenance whatever. His sentiments on this subject accord entirely with those which I have just expressed; and in order that they may be perfectly understood, I beg leave to call the attention of the Senate to a paragraph in a letter addressed by him to Captain Allison. It is in these words:

"Indeed, I have thought that for many years past the known wishes and opinions of the Executive have exercised undue and injurious influence upon the legislative department of the Government; and for this cause I have thought our system was undergoing a change from its true theory. The personal opinions of the individual who may happen to occupy the Executive chair ought not to control the action of Congress upon questions of domestic policy; nor ought his objections to be interposed when questions of constitutional power have been settled by the various departments of the Government, and acquiesced in by the people."

I stated, Mr. President, that the views of General Taylor accorded with those I had expressed; but they go further. He declares that, in his judgment, even a *knowledge* of the "opinions and wishes of the Executive" exercises an "undue and injurious influence on the legislative department of the Government; and that the "personal opinions of the individual who happens to occupy the Executive chair ought not to control the action of Congress." Believing, as he does, that "the known opinions and wishes of the Executive" are calculated to exercise an "undue and injurious influence on the legislative department of the Government," what would he think if he were informed that those who feel bound to support a plan of adjustment different from that which he has proposed, are denounced as his enemies, and threatened with the loss of his favor and excommunication from the party? Why, sir, that those who pretend to be his friends are in truth his enemies, and would disgrace him by exhibiting him as grossly inconsistent and faithless to his most solemn recorded pledges. His opinions, deliberately expressed on this subject, prove that the plan contained in his California message was only proposed by him in obedience to what he regarded as an imperative duty, and without the remotest design, on his part, of securing its adoption by Congress, through the exercise of any influence other than his simple recommendation. To coerce members to support the plan which he has proposed never entered his mind.

But, Mr. President, this is a digression into which I have been drawn in order to show that the enemies of the measure now under consideration have threatened its friends with the displeasure of the President without his warrant, as has been clearly proved by reference to his opinions, deliberately expressed and written down with a view to publication. Unless he has retracted them, (and if he has done so he no longer stands on the platform of the Alison letter, on which he was elected,) he has exercised no influence, indulged in no threats, nor resorted to coercion of any kind, to compel members of Congress to support his plan to the exclusion of the one now pending in the Senate. Threats of Executive displeasure, and charges of treason to the Whig party and the cause of human freedom, come from other sources—from the miserable parasites and reptiles who cling to and crawl about men in power. The purlieus of courts are always infested, more or less, by creatures of this species, who, professing to speak by authority, utter nevertheless but their own silly and mischievous babble. From such as these, and not from the President, have come threats and charges of treason against those who differ with him, perhaps in respect to this single measure. But I return to the point from whence I digressed.

Mr. President, I shall now proceed to discuss the general propositions of the bill before us.

Mr. Webster. If the Senator from Pennsylvania will give way, I will move an adjournment. The day is very warm, and the Senator's health is feeble; and I hope the Senate will favor him by an adjournment.

Mr. Cooper. I will give way for the motion; but I wish to be governed by the pleasure of the Senate.

The Senate, on motion of Mr. King, went into Executive session.

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The Senate resumed the consideration of the same subject.

Mr. Cooper continued: Mr. President, the proposition which I shall endeavor to establish is, that the plan of adjustment embraced in the bill now under consideration, and in the other two bills which form its complement, is not only necessary, but much more conformable, when properly understood, to the views, feelings, and interests of the people of the free States, than that of the President. What

are the provisions of the plan of adjustment embraced in the bill now before us, and in the two lying upon our table? The first, is for the admission of California into the Union, on the terms and with the boundaries prescribed in her constitution; the second, for the establishment of civil governments in the Territories of New Mexico and Utah; and the third, for the settlement of the boundaries of Texas. These three provisions are contained in one bill. The fourth provision, contained in a bill by itself, is for the recaption of fugitive slaves; and the fifth, likewise in a bill by itself, is for the abolition of the slave trade in the District of Columbia.

Against the admission of California into the Union, various objections have been urged. It is alleged that, in the formation of her constitution, she acted without the authority of Congress, and therefore irregularly; that the extent of territory embraced in the boundaries prescribed for herself is entirely too great, and out of proportion with the other States; and that this is especially the case in regard to the extent of her sea-coast, embracing some eight or nine hundred miles on the Pacific. In these objections there is some force; but it will be greatly diminished by a careful examination of the geography of the country, its formation, the character and course of its rivers, and its exterior boundaries. It is not my purpose to advert particularly to the objections founded upon her size and the extent of her sea-coast. These objections have been met and answered, as fully as they are susceptible of answer, by several Senators, during the course of the discussion. The Senator from Massachusetts (Mr. WEBSTER) and the Senator from Maine (Mr. HAMLIN) said all that could be said on this branch of the subject. But as to the irregularity of which she has been guilty in framing a constitution, and applying for admission into the Union as a State, without previous authority from Congress, I desire to say a word. That there is some irregularity in the course which she has pursued, no one will attempt to deny. But, in pronouncing upon such irregularity, regard must be had to her condition, and our own neglect of it. That condition was most peculiar. Torn from her connexion with Mexico, of which she had been a province, civil society, as we are informed, was almost disorganized and broken up. Actual political government, there was none in California; and, although her municipal laws and regulations continued to exist, there was no power to enforce obedience to them, in the extraordinary state of things which then prevailed. The discovery of gold, in quantities larger than had ever been known in the previous history of the world, attracted men from all nations to this modern El Dorado; and the consequence was confusion, violence, and disorder. The very abundance of the precious metal, though equal to the supply of all, stimulated cupidity into a degree of fierceness which want, however absolute, could not have inspired. A stranger spectacle than California exhibited was probably never seen before. Wealth and want, poverty and luxury, profusion and destitution, strangely combined with unbridled license, and a feeling of the necessity of order, and the restraints of law, formed the characteristics of a society composed of the people of many nations, dissimilar in manners, customs, habits, and language. Thousands of our own countrymen had gone thither, in obedience to the impulse which carries them wherever gain is to be realized or hoped for. But they had carried with them, along with the Anglo Saxon energy and spirit of enterprise, a love for order and the security of law. They had seen and felt the workings of our institutions on the Atlantic side of the Rocky mountains, and had not forgotten to appreciate them in their new homes on the shores of the Pacific. Congress had neglected to provide a government for the country, as it was bound to do by the stipulations of the treaty of Gaudalupe Hidalgo. Under such circumstances, who can justly blame them for doing for themselves what Congress was bound to do for them, but had neglected? Anarchy reigned supreme. There was no security for life or the fruits of industry. Might was right. A remedy for this state of things was necessary; and they applied that one which was most natural and efficacious. They established a State government, framed on the model of the other States of the Union. And allow me to ask, what was there criminal or even objectionable in this? It must be borne in mind, not only that their condition called loudly upon them to do what they have done, but also that they were invited to do it by the President of the United States. When all the circumstances of their condition are considered, the lawlessness and confusion which prevailed, their right to a government by the provisions of the treaty, and the suggestion of the President that they should form one, just and candid men will hardly pronounce their conduct blameable. On the contrary, I think, most men will find in it much more to applaud than condemn.

The right of communities who find themselves in a state of anarchy to establish governments for their protection, and for the maintenance of law and order, I will not discuss now, further than to say, that it is a right generally conceded, and that in the circumstances in which California was placed, there was nothing to detract from it. On the other hand, in my judgment, there was much to render the exercise of it imperative on her people. As to the irregularity of her course in forming a government without the previous authority of Congress, in addition to the necessity of the case, she can plead the precedent of a number of the States in whose condition there was much less to justify irregularity than in hers. But, besides this, in matters of great national concernment, objections purely formal and technical in their character, ought not to be permitted to outweigh the welfare of large communities.

Objection has been made to her sending two representatives to the other branch of Congress without an actual enumeration of the inhabitants, as prescribed by law. To comply literally with the law in this respect was impossible. But there can be no well founded doubt that her population entitles her to the number she has sent. It will be remembered, too, that in the case of Texas there was no enumeration, such as the law prescribes; and that both are cases which the Constitution and laws did not contemplate. Their requirements, therefore, must, in this respect, be considered as merely directory, and a substantial compliance with them all that is necessary; and there are numerous instances to prove that such has been the understanding and practice of Congress. It will be recollected that several of the States continued to elect members of Congress by general ticket, after the passage of the act re-

quiring them to elect by single districts; and yet the members thus elected were admitted to their seats. But this is a question more proper for the House of Representatives than for us; it being the constitutional right of the two Houses to judge, respectively, "of the elections, returns, and qualifications of their own members."

But, Mr. President, if there were in the condition and circumstances of California, at the time she formed her State government, reasons to justify her in the act, the same reasons, with others superadded, appeal to us now in favor of her prompt admission into the Union. Her cities have become the seats of a large and growing commerce; and already disputes have arisen between the Government collector and the officers of the local authorities. The public domain within her limits requires regulation; and the people need the protection of law to secure them in the full enjoyment of their rights. It is true, they have formed a State government, and established tribunals for the dispensation of justice between man and man; but until that government has been recognised by Congress, it will not command fully the respect of the people, nor afford them perfect security in the enjoyment of their rights of person and of property. But recognise it, give to it the sanction of Congress, admit the State into the Union, and it will give force and efficiency to the government, and ensure for it the respect, confidence, and obedience of the people. Our countrymen who have gone thither have carried with them to that remote quarter of the globe the same love for law, order, and security which animates our people at home; and they feel as deeply as the latter the necessity for good, stable, recognised, lawful government. Hitherto, without participating in the benefits of Government, they have been required to bear a portion of its burdens—the only mark of recognition they have received at our hands. Why should we refuse them the benefits of government? They are our kindred; and by our aid promise to become the pioneers of a civilization which the far-off shores of the Pacific will not limit. It will pass into Asia; and by renovating her, pay back to the East the debt due to it by the West for the rudiments of a civilization which, mingling with European energy, has done so much to elevate and dignify the political, social, and moral condition of the human race.

Mr. President, it is objected by some Senators that it will degrade and dishonor California to be brought into the Union in a bill providing governments for the Territories of New Mexico and Utah. I see no force in this objection, and was surprised when I heard it. I can very well conceive that California may be injured and feel degraded by being kept out of the Union when she is a supplicant to come into it; but I cannot conceive how she can be dishonored and degraded by being brought into the Union in a bill providing governments for her sister Territories. If ground for complaint existed any where, it would be on the part of the Territories—that, coming to us by the same title, at the same time, and with the same stipulations in their behalf, California should be admitted into the Union as the equal of the other States, while they are left in a territorial and inferior condition. But I repeat, sir, that it is by keeping California out of the Union, when she is a supplicant to come into it, that we do her wrong. It is wrong, not degradation, that she is suffering; and this she suffers from delay, and not from the connexion in which it is proposed to admit her. In justice to her, and to redeem our faith solemnly pledged to Mexico, I am for admitting her, and admitting her speedily. And I would vote for her admission, if, by so doing, I could hasten it, in connexion with the payment of some second Galphin or other claim against the Government, provided it were right in itself. And though she should come into the Union in such a connexion as this, who would question her equality, or say that the star thus added to the constellation which studs the banner of the Republic was less brilliant because of the manner in which it came there? No one, sir—no one. The honor of California will depend on no such accidental circumstances as the neighborhood she may occupy in the statute book, but on the intelligence, integrity, and loyalty of her people.

But it is objected that several subjects of legislation, not congruous, are united in the same bill. In the first place, I deny that they are not congruous. They are eminently so. The several Territories of California, New Mexico, and Utah became ours at the same time, and by one title; with a stipulation in behalf of all that they should "be admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights of citizens of the United States." California is in a condition to be admitted as a State; the others are not. But all are entitled to the enjoyment of the rights of citizens; and such rights the bill proposes to confer upon all. But another subject is included, and included almost of necessity—certainly with propriety. I mean the settlement of the boundary of Texas. Texas and New Mexico are coterminous States; and it would be unwise to establish a government for the latter, without defining the limits within which that government is to be exercised. But her boundary on the side of Texas is in dispute; hence the necessity of settling it. It will be seen, therefore, that the subjects are congruous, whatever may be said as to the propriety of uniting them in one bill.

I will not deny, as a general propostion, that it is not the better and wiser course to legislate separately on different subjects; in other words, to include but one subject in a bill. But something is sometimes due to expediency; and where the subjects are right in themselves, there can be no harm in uniting them. In this case, the adoption of several measures are necessary to allay the agitation which prevails, and restore harmony to the country. It was, therefore, both expedient and proper, in my judgment, to unite such of the measures as were congruous in one bill. Besides this, unhappily for the country, a feeling of distrust existed between the different sections of the Union, which made it necessary that these measures should be carried through together, or the passage of all of them be jeoparded. From the clamor raised against the union of these measures, the community would be led to suppose that it was a novel and extraordinary thing to include more than one measure in a bill. Nothing, however, is more common, both in Congress and in the State legislatures, than to unite several subjects; and sometimes many, and very incongruous subjects are united in the same bill. In Pennsylvania it is very common, though not always attended with the most desirable results. The

bill incorporating the late Bank of the United States was entitled, if I remember rightly, "an act to repeal the State tax and for other purposes." But at a later period in the history of our legislation a more desirable object was accomplished by the union of two measures in one bill; and that object could not have been accomplished in any other way. I refer to the measure by which the faith of the State, pledged to her creditors, was redeemed, and the stain of repudiation wiped from the name of Pennsylvania. This was done by uniting a bill for the sale of the public works with a bill to increase the State taxes. But I do not refer to these instances by way of general approval, but only to show that this kind of legislation is common, both here and in the States.

But, Mr. President, there are Senators who refuse to vote for this bill, because slavery has not been excluded from the Territories of New Mexico and Utah in advance. I sympathize with these Senators, and voted with them to apply the Wilmot proviso to the Territories. In their judgment and patriotism I have the fullest confidence; but, as it is out of our power to apply the proviso, I feel bound to do that which will be most likely to effect the same object, namely, to admit California, and establish governments in the Territories to enforce the laws now in existence in them. I am ready to vote for the admission of California in every shape in which the question of her admission may be presented; but I entertain the most serious fears that if the bill now under consideration should fail, she will not be admitted at the present session. I hope I may be wrong; but I am for taking the safe course, and admitting her while it is in our power. I am anxious for her admission, not only because it is due to her condition and our own pledges that she should be admitted, but I am likewise anxious for it as a Northern man, because she will come into the Union as a free State, adding to the power of the free States in both branches of Congress. California once admitted, and there is a preponderance of free States in this body, and the ability, if they be true to themselves, to prevent the further acquisition of slave territory, or the extension of slavery beyond its guarantied limits. Is there any doubt of the sentiments of the people of California in relation to slavery? Look at the act of her convention excluding it, an act the more significant of the state of feeling there on this subject, when it is remembered that a majority of that body were Southern men; yet being so, by the force of public sentiment, were compelled, in deference to it, to exclude slavery by a unanimous vote. There are, however, notwithstanding this, Northern Senators who would permit California, a free State, to stand at our doors a supplicant for admission, because they cannot admit her alone, or exclude slavery in advance from the Territories of New Mexico and Utah. Such conduct, in my judgment, is no wiser than that of the general who, on the eve of battle, facing his enemy with equal forces, would decline to receive a reinforcement of one regiment, because there were two others not permitted to join him. As a Northern man, I repeat, that I am for receiving into the Union free States as our Southern friends receive slave States, whenever they present themselves in a proper manner. I would have been glad to see California admitted, and the Wilmot Proviso applied to the Territories, but, having failed in the latter, I am for securing the former. In matters affecting us personally, where we cannot obtain all we ask, it may be well enough to refuse to take any thing; but in matters of legislation, the loss of one favorite measure will not justify us in surrendering others still more important. While, therefore, I should be willing to take all, not being able to obtain it, I will take what I can get. This is a simple principle of action which I think the people will understand; but I doubt if they will be able to understand the principle upon which those members act, who, professing to be anxious for their interests, refuse to take any thing, because they cannot get all. The people of this country, of the free States especially, are practical people, who will understand that the admission of California is a practical fact, and that it will add one to the number of free States, securing to them forever the preponderance in this body. On the other hand, while they would doubtless be glad to see the Wilmot proviso applied to the Territories, and slavery thus expressly excluded, they will hope for the same effect from the Mexican laws now existing in them, and from other circumstances, rendering it unlikely that slavery will ever be carried thither. At any rate, speaking for my own constituents only, I am sure they will never consent that California, a free State, shall be kept out of the Union, when keeping her out will not help to bring in New Mexico and Utah as free members of the Confederacy.

The second provision made by this bill, Mr. President, is for the establishment of governments for the Territories of New Mexico and Utah. The plan of the President recommends non-action, or, in other words, that these Territories shall depend, for the security and preservation of domestic order, on their own municipal laws and the military governments that have been established in them. Such is his suggestion, as far at least as New Mexico is concerned. I need not say, after the votes I have given, that I do not regard the scheme of adjustment, proposed by the committee in relation to the Territories, as the best or most conformable to the wishes of my constituents, and the spirit of the age in which we live, that could be devised. But I think it is the best that was practicable under the circumstances. In this age of real progress; in the very noon of the nineteenth century, when the fire of liberty first kindled on our own shores is blazing there, and flashing its rays across the broad Atlantic, enlightening the darkness of other lands, and guiding oppressed humanity on the road to freedom, I had hoped that there would be no objection on the part of the representatives of American freemen to declare that territory which was free when we acquired it should remain free forever. I desired that the world, if it should assert we had waged a war of conquest against Mexico, and had despoiled her of her territories, should be compelled to admit at the same time, that we had conferred on them the blessings of good government, free institutions, and a higher civilization. I therefore voted for the Wilmot Proviso. It is, indeed, true that I believed slavery had been abolished in Mexico previously to the treaty of peace; and I believe it remains abolished in the territories acquired by that treaty to the present day. I believed, also, with the distinguished Senator from Massachusetts (Mr WEBSTER,) that it was altogether improbable that slaves would ever be carried from the Atlantic States, or the States in the valley of the Mississippi, where slave labor is productive, slave property secure, the soil fertile, and markets

convenient, to Territories comparatively barren and difficult of access; and where, according to a majority of opinions, the laws tolerating slavery have been abolished, and remain abolished. It is on the side of Texas, and through her exertions and influence, that slavery will obtain a foothold in these Territories, if it obtain such foothold at all. But as some Senators, as well as other persons, were of opinion that slavery still continued to exist in Mexico, or at least in the Territories acquired from her, I thought it would be wise and proper, in view of this conflict of opinion, to settle the doubt to which it gave rise by express enactment. As every citizen of the United States had an interest in the question, I felt that it was the duty of Congress to resolve it, when it presented itself immediately in the course of legislation. Legislators generally regard it to be their duty to pass declaratory statutes to remove doubts that exist; and it was to do this that I voted for the Wilmot Proviso. And I should have done so, even if I had believed that the laws of nature sufficiently interdicted slavery in these Territories. In this respect I differed with my honorable friend from Massachusetts, (Mr. WEBSTER,) who declared in substance, in his great speech, delivered in this body in March last, that it was useless and unwise to re-enact the will of God, which had interdicted slavery in these Territories by the most irrepealable of laws—the law of nature and of the formation of the earth. I did not think so. I believed then, as I believe now, that it is sometimes both wise and useful to re-enact even His laws, and to add to them, in order to enforce them, human sanctions. For these reasons I voted for the proviso. I thought they were sufficient to justify me in doing so; but others, and a majority, thought differently, and to the will of the majority I submit. The honorable Senator, to whom I have just referred, seemed to think that, under the circumstances, to vote for the proviso conveyed some taunt or indignity to the South. But I desire to say that it was with no disposition to wound the South, to taunt her, or to offer her an indignity, or do her a wrong, that I voted for the proviso. I voted for it because I thought it was right that territory which was free when it became ours should remain free. I had no disposition to do her wrong—to do wrong to any section, or the people of any section. I love the Union, the whole Union. The country, every part of it, between the two great oceans which lave its eastern and western shores, and from the farthest north to the remotest south, is my country—all of it, every foot of it. I love it all; am proud of it all; and rejoice in the prosperity and happiness of it all. I love my own State the best. That which is the nearest to us is the dearest. It is so by the law of our natures. Our own State, our own county, our own home, and those who cluster about our own hearths, are dearer as they are the nearer. But they are all parts of one whole, and loving them we can hardly fail to love it. I therefore repeat, that I would willingly do no wrong to the South or any other portion of the country.

But, Mr. President, I regard the establishment of civil governments in the Territories as not only necessary, but the best possible security, next to the proviso, against the introduction of slavery. I shall, therefore, go for the establishment of such governments as the bill now under consideration provides. I am opposed to the non-action policy for several reasons, though, as I have before stated, I would have been willing, at one time, out of deference to the recommendation of the President, to support it; and the disposition to do so continued whilst I believed "that the property, lives, liberties, and religion of the people of New Mexico were better protected than they ever were before the treaty of cession," as was the opinion of the President at the time his message was communicated to Congress. This, policy, however, never commended itself to me by its own merits. It was one which was every where denounced in Pennsylvania by the Whig party during the Presidential canvass. It was alleged to be the policy of our political opponents, and was repudiated and condemned by the supporters of General Taylor. But recent developments exhibit the objections to it in a new and more striking light.

By the treaty of peace between the United States and Mexico, the former entered into a solemn stipulation with the latter that the benefits of government should be speedily provided for the territories ceded to us. The people of the territories—such of them, at least, as chose to remain—became American citizens, entitled to the benefits and protection of American laws. Are we not bound, then, by all the obligations of good faith recognised amongst civilized men, to carry this stipulation of the treaty into effect? Doubtless we are, unless something has occurred to absolve us from our obligation. If it can indeed be shown that the people are satisfied with a military government, and that their "property, lives, liberty, and religion" are as well or "better protected than they ever were before," there would be an excuse, at least, for our failure to fulfil our treaty stipulations. But this cannot be done. On the contrary, the people complain loudly of the tyranny, injustice, and oppression of their Governor, and the inefficiency of the government established for their protection. The honorable Hugh N. Smith, the delegate to Congress from the Territory of New Mexico, in an address to his constituents, lately published, deliberately charges the Governor, Lieut. Col. Munroe, with conduct as arbitrary and oppressive as that practised in India by the Governors of the British East India Company, in the days of their most uncontrolled and despotic sway. He asserts that this military governor exercises an absolute control over the miserable mockeries of courts which have been set up, dictating to them who shall be brought to trial and who shall go at large. Nor does he stop here. He charges him with lending his influence, by connivance of the Secretary of War, to aid an attempt which is being made to extend the jurisdiction of Texas over a large portion of New Mexico, and to smuggle slavery into the Territory against the will of the people. The truth of this charge is confirmed, in part at least, by the correspondence of Colonel Munroe and Major Neighbors, published a short time since by order of the House of Representatives. The following is the correspondence:

"FEBRUARY, 23 1850.

"SIR: Having arrived at this point, a commissioner of the *State* of Texas for the purpose of extending the civil jurisdiction of the State over this Territory, I deem it a proper courtesy due to you as

the military governor of all the territory claimed by the State of Texas as well as New Mexico, to take an early opportunity after my arrival to inform you of the fact, and to solicit, at the request of the Executive of Texas, (Governor Bell,) your friendly co-operation in organizing all the territory properly belonging to this State into counties, (the limits of which have been defined by the late act of the legislature,) and to extend over the inhabitants the civil laws of the State.

"Finding no opposition in this section of the Territory to the extension of the State laws, I have, in accordance with my instructions, issued writs of election; and there will be a complete organization of this county, (El Paso,) which extends from sixty miles below El Paso to twenty miles above San Diego, and due east from each point to the Pecos river.

"So soon as possible after the celebration of this election, I shall visit Santa Fé, when I shall have the honor to submit to your inspection my instructions from the Executive of this State, with such other information in relation to my mission as may be deemed proper.

"I have the honor herewith to enclose a copy of his excellency Governor Bell's message, as well as his address to the inhabitants of this Territory; also, a package addressed to you by the editor of the Western Texan newspaper at San Antonio.

"I have the honor to be, very respectfully, your excellency's obedient servant,

"ROBERT S. NEIGHBORS,
"*State Commissioner.*

"His excellency Brevet Col. JOHN MUNROE,
"Governor of New Mexico, &c., Santa Fé."

"HEADQUARTERS, NINTH MILITARY DEPARTMENT,
"*Sante Fé, New Mexico, March* 12, 1850.

"SIR: Having been duly notified by Major Robert S. Neighbors of his arrival, as a commissioner of the State of Texas, for the purpose of establishing the civil jurisdiction of the State over this Territory, your command will observe a rigid non-interference with him in the exercise of his functions, and equally avoid coming in conflict with the judicial authorities created by that State.

"I am, respectfully, your obedient servant,

"JOHN MUNROE,
"Brevet Col. United States Army, commanding department.

["Addressed to the several officers commanding posts in and near the Territory claimed by the State of Texas."]

This correspondence was communicated to the House by the Secretary of War, on the 16th of May, in pursuance of its call previously made; and it proves two things: first, that Texas is engaged in extending her civil jurisdiction over territory heretofore regarded as a part of New Mexico, and to which the jurisdiction of Texas, whilst an independent government, never reached; and, second, that the military governor, Lieut. Col. Munroe, has given orders to the officers commanding posts in New Mexico to "observe a rigid non-interference" with the agent of Texas, sent by the Governor of that State to seize upon the Territory of New Mexico, and organize it into counties, subject to Texan rule. Major Neighbors boldly avows that he is the "commissioner of the State of Texas, appointed for the purpose of extending the civil jurisdiction of the State over this territory;" and asks "the friendly co-operation" of Col. Munroe in organizing the territory, and extending over the inhabitants thereof the civil laws of Texas. Is there not evidence in this epistle of Major Neighbors to Col. Munroe to awaken suspicion, at least, that the former had assurances from some quarter that he would find Col. Munroe friendly to his object, if not ready to further the prosecution of it? Would he have thus written, communicating to him his object, if he had not been previously advised that he would find no obstruction to his design in that quarter? If he had not been so advised he certainly exhibited both want of prudence and want of tact. But the response of Col. Munroe to his letter shows that, if he had no previous assurance of the friendliness of his disposition, he guessed accurately what it would be. That response was an order to his subordinates commanding posts in the territory to observe a "rigid non-interference with the agent in the exercise of his functions." So far, certainly, Texas had no right to complain of the conduct of Col. Munroe. It was every thing she could desire. To stand neutral himself, and to require a rigid non-interference on the part of his subordinates, was to encourage Texas. He was the Governor of New Mexico, appointed to protect New Mexico; and was in the possession of large, nay, almost unlimited powers for that purpose, if we may judge from his more recent acts. To stand neutral, therefore, and to require his subordinates to observe a like neutrality, was at least a tacit invitation to Texas to continue her encroachments. If she had done so, and carried out her design, what would have been the consequence? Why, undoubtedly, the extension of slavery coteraporaneously and co-extensively with her jurisdiction. But latterly, it would appear, he has changed his purpose, and with it his policy. For a while he was willing to permit Texas to extend her jurisdiction over the greater part of New Mexico, but more recently he has assumed the right to order a convention to form a State constitution, fixing the number of delegates from the several districts, and the time and place they should assemble. By what authority he has done this does not appear. From the correspondence communicated to the Senate, in answer to the resolution of my friend, the Senator from Mississippi, (Mr. FOOTE,) it does not appear that he derived any such authority from the Executive. We are, therefore, left to infer that he acted without authority. But the most important inquiry is, what is to be the consequence of his act? Is it to simplify or complicate the condition of things in the Territory? It is to be feared that it will tend to complicate them. The people themselves prefer a territorial government, and have besought Congress to establish one.

They have sent here a Delegate for that purpose, and have signified their desire in this respect in every possible way. If they have obeyed the proclamation of Col. Munroe, and elected delegates to a convention to form a State constitution preparatory to an application for admission as a State, they have done it in despair of obtaining a territorial government at the hands of Congress. But what is to be done? Admit her as a State into the Union, or give her, according to her desire, a territorial government? If her population, resources, and the intelligence of her people qualified her for admission, I would say at once, admit her and end this bootless contest. I cannot, however, shut my eyes to the difficulties that will environ her application. Every objection, well founded or ill founded, that has been urged against the admission of California, will be urged with three-fold force and justice against the admission of New Mexico. Her population is insufficient; her resources inadequate to her support as a State; and the manner of her course preparatory to admission much more irregular than that of California. As I have stated already, the American population of the Territory does not exceed two thousand souls; nor is it likely that it will be greatly increased for many years to come, owing to causes to which I have before adverted. The intelligence of the native population is, for the most part, at very low ebb, rendering them unsafe depositaries of the rights and privileges of citizens charged with the duty of self-government. All these things, it is easy to foresee, will be urged against her admission; and how are they to be answered? There is but one answer to them. The objections are just. No one can gainsay them. But if Congress will not do its duty, and comply with the stipulations of the treaty, guarantying to the people the benefits of a government adapted to their condition, I, for one, shall vote to admit New Mexico into the Union as a State, provided she presents herself with a constitution republican in form. She has aright to government; and any form of government is preferable to the military government which she has endured for the last two years.

But, sir, I hold that the wishes of the people of New Mexico should have some weight in the determination of the question whether a territorial government should be established or not. From their Delegate, as I have already stated, we learn that the people desire a Territorial government; and from a letter addressed to him by one of his constituents, and which was lately published, we learn the same thing. The following is an extract from it:

"St. Louis, (Mo.) *May* 24, 1850.

'Hon. Hugh N. Smith, *Washington:*

"Dear Sir: I left Santa Fé on the 17th of April, and arrived here two or three days since; and believing that events which transpired just previous to my leaving, and those transpiring, with their causes, &c., may be of interest to you as Delegate from New Mexico, I have determined to write to you.

"A large majority of the people of the Territory have manifested, time and again, their preference for a Territorial government, and at the very last trial of the question it was shown, even in Santa Fé, the stronghold of the State party, that there were ten to one in favor of a territorial government; but since the arrival of the Texan commissioner, who comes with threats in his mouth, 'that if the jurisdiction of Texas is not submitted to quietly, Texas will march a sufficient force into the country to compel submission,' an almost universal cry has been raised to organize a State government, in the belief that the government they have asked for and desire, above all others, will not be given them during this session of Congress.

"They are determined to resist Texas in *every way* until resistance is impossible, and that they may make that resistance feasible and effectual, they must have a government; and a State government being the only one within their reach, they have resorted to that, not from choice but from necessity.

"The means placed by the existing laws in their hands will be used against Texas while those means will do, and when they fail, resort will be had to *any means* which can be successfully opposed to her. If the minions of Texas usurp authority in New Mexico, they will be punished by the laws of the Territory as usurpers. You need not imagine, however, that because they have commenced organizing a State government for a single particular purpose, that therefore they are dissatisfied with your efforts at Washington, or that they really wish any other government than that which they sent you to procure; on the contrary, let the Congress show that the wishes of the people of the Territory will be regarded, and that moment the scheme of a State government will be abandoned at once, and they would return at once to the demand for a territorial government.

"The feeling which I have attempted to show is not that of Santa Fé alone, but of the whole people—Americans and Mexicans—and it is expressed by them in their resolutions and private letters, with a bitterness greatly augmented by the course which Texas has seen fit to pursue; and although, should the Government of the United States turn them over to the tender mercies of Texas, they would submit to the sentence, yet I am sure that it could not be any thing but a great misfortune to New Mexico and Texas, but also to the United States, as bloodshed would be the result in the end. The whole country is fearfully exasperated against Texas; and although her commissioner is every where treated with respect, as the representative of one of the States of the Union, yet it is with that cool determined forbearance which shows very clearly what may be expected from them the moment they find their rights invaded by those whom they have no great reason to love.

"Since your election by the convention in September last, I have been almost all over the Territory, and conversed freely with the people on these and other subjects, and have reason to know, and assure you candidly, that the facts which I have above stated are true. I have gone from Santa Fé to El Paso, on one side of the river, and back again on the other, and from the extreme western settlements to the eastern, and beside have conversed with others from all the various parts of the Territory, and find their observations agree in every particular with mine."

From this it is evident that the first wish of the people is for the establishment of a territorial gov-

ernment; and that if they have thought of forming a State government, it was only because they despaired of protection from the United States, through the instrumentality of a territorial government. This letter proves likewise the bitter animosity which exists against Texas, and the determination to resist the attempt which she is making to extend her jurisdiction over New Mexico; and every thing contributes to show the necessity of affording speedy protection to the people. And one other thing, I think, is manifest, which ought to influence the votes of Northern Senators at least in favor of the bill now under consideration. The confusion, disorder, and lawlessness which now prevail in the Territory, afford the only chance, in my judgment, for the introduction of slavery into it. Advantage may be taken of this condition of things to entail upon the people an institution totally repugnant to their wishes and feelings, if the testimony of their Delegate is to be relied on. I have already referred to the stipulation in the treaty of peace between the United States and Mexico, which requires that the people of the Territories shall be admitted as soon as possible to the enjoyment of all the rights of American citizens. But, independently of the obligation imposed on us by the treaty to afford to them the benefits and blessings of civil government, we are bound to do it by the ordinary duties incumbent upon us as the representatives of all the people of the republic. It is our duty to give them civil government, in order that laws for their protection may be enacted, and security afforded to them in all the diversified relations of life; and failing to do this, we fail in the performance of one of our most imperative duties as legislators. It is not enough that a military government, the most imperfect, and from its nature the most arbitrary and tyrannical of all governments, has been given to them. They are not satisfied with this. It has furnished them no protection. Their men, they allege, have been murdered by the Indians, and their women and children carried into captivity; while at the same time they complain that they are, through its instrumentality, to be subjected to the domination of Texas and the infliction of slavery. Why, then, shall we continue to withhold from them the advantage of civil government, and the great republican American prerogative of legislating for their own security and their own advantage? If these Territories be free, as it is asserted, and as most Northern men believe, why not put it into their own power, by giving them governments, to remain so, if it be their wish? Whether they are free or not, is a question which I propose briefly to discuss.

I presume no Northern Senator doubts that slavery was abolished in Mexico previously to the late war with that country, and that it remains abolished in the territories ceded to the United States at this time. I know that while some Southern Senators concur in this view of the question, that there are others, and probably a majority, who dissent from it. I propose very briefly to examine this question; not that any great necessity exists for it here, after the very able arguments we have heard, but chiefly for the sake of presenting the whole subject in a connected view to my own constituents.

On the 15th day of September, 1829, by a decree of Guerrero, at that time dictator of the Republic, by authority of an act of the Mexican Congress of a previous date, slavery was expressly and most emphatically abolished in all the trrritories of Mexico. The act of abolition was to operate presently, to take effect upon that very day. It is true it contained a provision for indemnity to the owners of slaves; but the efficacy of the act was not dependent on the payment of the indemnity or of any other contingency. It was perfect in itself. The operative words were, "*slavery is abolished in the Republic. Those who until to-day have been considered slaves are consequently free.*"

It has been objected to the validity of this decree, by the honorable Senator from Georgia, (Mr. BERRIEN,) that the Mexican Congress had no power under the Constitution of the Republic to clothe Guerrero with absolute power, or power to free the slaves. But the power of the Mexican Congress to do this was in my judgment most conclusively maintained by the Senator from Wisconsin (Mr. WALKER,) by reference to the history of the Mexican government and its political antecedents. But suppose it did not possess the power, and that Guerrero is to be regarded as a pure usurper. What follows then? That the acts of his government were invalid, and cease to bind from the period of his deposition or overthrow? Not at all. The acts of a ruler *de facto*, or of a government *de facto*, are as binding on the successor as though they were the acts of a ruler or government *de jure*. This is the law of England and the law of civilized nations every where. In England and in France this doctrine has always been recognised; and both countries furnish many instances in which it has been acted upon. In England, during the fluctuating fortunes of the rival houses of York and Lancaster, this doctrine was constantly acted upon, notwithstanding the lawlessness of the times and the unquenchable animosity of the rival factions towards each other. After the civil wars, and subsequent to the restoration of the Stuarts, the doctrine was again exemplified. Not only the monarchy, but likewise its constitution, had been overthrown by Cromwell; yet, after the restoration, not only were his acts recognised, but the decisions of his judges continue to be quoted in the courts, as authority, to the present day. A contrary doctrine would upturn and destroy civil society.

But the decree of Guerrero needs no authority drawn from other sources to sustain it. It is recognised, affirmed, and in effect continued by an act of the Mexican Congress, passed the 5th day of April, 1837. This act declares "*that slavery is abolished without exception in the whole Republic;*" and it then provides that the owners of slaves manumitted by the decree of the 15ih of September, 1829, (the decree of Guerrero) shall be indemnified for their value. This settles the question, and indeed the eloquent Senator from Louisiana (Mr. SOULE) admitted in his very able speech, that slavery was abolished and does not now exist in Mexico. It has been contended, however, by the honorable Senator, as well as others, that notwithstanding this, slavery exists legally in the territories ceded by Mexico, now that they have become a part of this Republic. With due deference to him and to them, I think the whole question was yielded when it was admitted that slavery had been abolished in Mexico previously to the peace by which the territories were acquired. If such admission be not a surrender of the whole question, then two propositions must be established: first, that slavery in the United States is not merely a civil relation, tolerated in certain localities, but the law of the Constitution—a fundamental,

active, essential principle of it; and, second, that the laws of a State, municipal as well as political, are *proprio vigore*, by their own force, carried into and made to prevail in its territorial acquisitions. I deny both of these propositions totally. The first will hardly find an advocate here or any where. No one will contend, I presume, that it was any part of the design of the Constitution to establish slavery any where. It only tolerated it as a local relation, or institution, existing in some of the States, and as such gave it protection. There is not a word or syllable in the Constitution which would serve as the basis of an argument that slavery is a national institution, and as such to be protected, enforced, or propagated. The second proposition is more plausible than the first, but not less unsound. I shall examine it briefly.

This proposition is, that when one State is subjugated by another, or becomes incorporated with it, the laws of the former are *eo instanti* supplanted by the laws of the latter, and cease to exist. It is not denied, Mr. President, that the political laws of a territory, conquered, or otherwise acquired by another State or nation, cease to exist from the moment the acquisition is complete, whenever they are in conflict with, or in their scope or spirit repugnant to, the laws of the latter. But this is not the case with the civil or municipal laws. It is admitted by all the authorities that these remain in force until expressly abrogated by the law-making power of the conquering or acquiring nation. This was admitted by the honorable Senator from Georgia, (Mr. BERRIEN,) in the ingenious and learned argument which he addressed to the Senate some three or four months since. This being admitted, the only question which remains to be decided is, whether slavery is to be classed amongst the public and political laws which constitute the form of government, and direct the manner in which the public authority is to be exercised, or amongst the civil and municipal laws, which regulate the rights and conduct of individuals amongst themselves.

Vattel declares, that "the laws made directly with a view to the public welfare are political laws; and in this class those that concern the body itself and being of society—the form of government—the manner in which the public authority is to be exerted—those, in a word, which together form the constitution of the State, are the fundamental laws." "The civil laws," he continues, "are those which regulate the rights and conduct of individuals amongst themselves." Thus, it appears, that the political laws of a State are those which form the body and being of society, the system of government, and the manner in which the public authority is exerted; in other words, the laws which form the constitution are political laws. I have already attempted to show that slavery, although recognised by the Constitution, was not established by it, and does not exist by virtue of it; that it is no fundamental, essential part or principle of it, which it is necessary to maintain in order to its existence or efficacy. Blot slavery from the system if you please, and yet the Constitution will be unimpaired, and all its efficacy will remain. You have, by doing so, withdrawn, it is true, an object from its protection, but you have done nothing more. Slavery, instead of being an essential part or principle of the Constitution, which it is necessary to maintain in order to preserve its integrity and efficacy, is, on the contrary, a condition, a mere local condition, repugnant to its general design of "establishing justice and securing the blessings of liberty," which it tolerates, but does not enjoin. This being so, does it fall far short of involving an absurdity, to assert that the Constitution, which established slavery nowhere, and which only tolerates it where it is, should nevertheless carry slavery with it as an inseparable companion wherever it goes? The Constitution does not enjoin slavery any where. The States in which it exists may abolish it to-morrow, and the Constitution suffer no violation or detriment therefrom. But, though it does not enjoin slavery, though slavery may be abolished without violating it in every State in the Union, yet, by some inconceivable process, it is regarded by some as an instrument for the propagation and extension of slavery. But, sir, it never can be true that the Constitution, by its own force, devotes to slavery every foot of soil to which it is extended.

I think, Mr. President, it is clear from the definition of what constitutes the political laws of a State, and the light drawn from the Constitution itself, that slavery does not exist by force of them, but by force of local municipal laws. It is by the latter class of laws that the relation of master and servant (the relation most nearly approaching that of slavery,) exists, and is regulated, in England and in the various States of this Union. And it is by the municipal laws of the States that slavery exists and is regulated, wherever it is found in the United States. But we have seen that the civil and municipal laws of a State are not abrogated or abolished by passing under the dominion of another State. Let us now see what our own courts say on the subject. The Supreme Court of the United States has frequently recognised the doctrine I have asserted, namely, that it is only the political laws of a country which are abrogated or annulled when it passes under the sovereignty of another, either by conquest or purchase; while the civil and municipal laws—those which relate to property and regulate the conduct of individuals amongst themselves—remain in force until repealed or supplied by positive enactment. This doctrine was asserted by the Supreme Court of the United States, in a case in 1 Peters' Reports, page 542; and by the same tribunal in the case of the United States *vs.* Percheman, 7 Peters' Reports, page 86. The State courts, both North and South, have decided that slavery exists by force of the municipal laws of the States, and by force of the municipal laws alone. This was decided in the District Court of the United States for the district of Ohio, in the case of Jones *vs.* Vansant, 2 McLean's Reports, p. 596; and in Illinois, in the case of Jarrot *vs.* Jarrot, 2 Gilman's Reports, p. 8. In both these cases there was an elaborate examination of the question, and the opinion of the court is well sustained by the authorities on which they were founded. The same question was decided in Mississippi, in the case of Harry and others *vs.* Decker and Hopkins, Walker's Reports, page 42; and, again, in the case of the State of Mississippi *vs.* Isaac Jones, reported in the same volume, page 86. The Supreme Court of Louisiana declares, in the case of Lundsford *vs.* Coquillon, 2 Martin's Reports, page 402, "that the relation of owner and slave is, in the States of this Union in

which it has a legal existence, a creature of the municipal law." And the same doctrine is asserted still more broadly, if possible, in the case of Rankin *vs.* Lydia, 2 Marshall's Kentucky Reports, page 470. Several of these authorities have been already referred to and commented on for the same and other purposes by the Senator from Wisconsin, (Mr. WALKER.)

It will be seen from the cases referred to, that if repeated adjudications can settle a question, this one has been settled abundantly. North and South, in the State courts and in the Supreme Court of the United States, wherever the question has arisen, it has been decided that slavery exists by virtue of municipal laws alone; and that the municipal laws of a State remain in force, though the State should pass under the dominion of another, and its sovereignty become extinct. Slavery having been abolished in Mexico, and the municipal laws of such of its territories as were ceded to the United States remaining in force, it follows that slavery cannot exist in them.

But before quitting this branch of the subject, I desire to notice very briefly a position assumed by the honorable Senator from Louisiana, (Mr. SOULE,) in support of a doctrine contrary to that which I have maintained. He assumed that when the American army entered Mexico, and occupied her provinces, the laws of Mexico were *pro tanto* suspended—at least her public and political laws; and he then proceeds to ask the question, when and how they were revived, and once more put in force. Clearly, I think, the honorable Senator was mistaken in supposing that the mere seizure and military occupation by one belligerent of a province belonging to another, has the effect of suspending or abrogating the laws of such province, whether political or municipal. The effect of seizing upon and holding military possession of the territory, or part of the territory, of an enemy, may be, and generally is, to render the laws silent, and suspend their execution by shutting up their courts; and to this effect is the classical authority, *leges silent inter arma*, quoted by my honorable friend, if he will so permit me to designate him. In the fear, confusion, and violence consequent upon the invasion and military occupation of a province or territory by the army of an enemy, the administration of the laws generally ceases; but the laws themselves are not suspended. further than they would be by the prevalence of pestilence, famine, or contagious disease, or other cause, rendering their execution temporarily dangerous or impracticable. The constitution and laws of a State which sends forth an invading army do not follow it into the invaded country to operate over it, or on the people of it. If they follow it at all, it is only in a very restricted sense, operating on the invaders *inter se*, in the form of the rules and regulations of war. For all other purposes, the law of nations is the law of invaders. Thus it will be seen, that the basis of the Senator's argument is swept away; neither political laws or municipal laws being suspended or abrogated by military invasion and occupancy. The answer, therefore, to the question, if the laws were suspended how were they revived, is, *that they were not suspended, and needed no revival.* But, at any rate, the doctrine I have maintained would not be affected, even if the view presented by my honorable friend, that the political laws are suspended by military invasion and occupation was correct; the courts having decided that slavery is the creature of the municipal laws, and the municipal laws alone.

To prove that the view which I have taken of the subject is correct, I beg the attention of the Senate to the language of the Supreme Court of the United States, in a case in 1 Peters' Reports, page 542:

"The usage of the world is, if a nation be not entirely subdued, to consider the holding of conquered territory as a mere military occupation until its fate shall be determined by the treaty of peace. If it be ceded by the treaty the acquisition is confirmed, and the ceded territory becomes a part of the nation to which it is annexed, either on the terms stipulated in the treaty of cession, or on such as its new master shall impose. On such transfer of territory, it has never been held that the relations of the inhabitants with each other undergo any change. Their relations with their former sovereign are dissolved, and new relations are created between them and the government which has acquired the territory. The same act which transfers their country, transfers the allegiance of those who remain in it; and the law which may be denominated political is necessarily changed, although that which regulates the intercourse and general conduct of individuals remains in force until altered by the newly created power of the State."

And further on, the following language is used:

"It has already been stated that all the laws which were in force in Florida, while a province of Spain, those excepted which were political in their character, which concerned the relations between the people and their sovereign, remained in force until altered by the Government of the United States. No laws could then have been in force but those enacted by the Spanish Government."

There is also another authority. I read from 7 Peters' Reports, page 86:

"It may not be unworthy of remark that it is very unusual, *even in cases of conquest*, for the conqueror to do more than to displace the sovereign, and assume dominion over the country. The modern usage of nations, which has become *law*, would be *violated;* that *sense of justice and of right*, which is acknowledged and felt by the whole *civilized* world, would be *outraged*, if private property should be generally confiscated and private rights annulled. *The people change their allegiance; their relation to their ancient sovereign is dissolved;* but their *relations to each other* and their rights of property remain undisturbed. If this be the modern rule, even in cases of *conquest*, who can *doubt* its application to the case of an *amicable cession of territory?*"

From the whole scope of the arguments contained in these extracts, it is evident that the laws of a province or territory are not suspended or abrogated by the invasion and military occupation of it by an enemy. In the language of the court, "the holding of conquered territory" is to be considered "as a mere military occupation of it, until its fate is determined by the treaty of peace;" and *then, if*

it be ceded, the relations of the people with their former sovereign are dissolved, and the law, which may be denominated political, is necessarily changed. But it is the cession or conquest which works the dissolution of the allegiance of the people and the change of the political laws, and not the invasion and possession by the enemy.

Before proceeding to notice another argument of the honorable Senator, I desire to recur to the question which he propounded, and the answer which he gives to it. Speaking of our armies entering Mexico and occupying it at various points, he asks: "Now, what became of the Mexican laws and constitution during the invasion, and while the American armics took and held possession?" And he answers that "the law of nations would pithily respond with the *leges silent inter arma*, which attests the presence of the conqueror, and proclaims the supremacy of military domination. But the superior humanity and characteristic forbearance of American invaders left them in the free enjoyment of those civil and religious rights and privileges which the treaty of peace afterwards more formally, *but just to this extent and no more*, guarantied and assured to them; and so things remained during the hostile occupation. As to all public political rights, whether derived from the Mexican law, or the higher sovereign authority of her constitution, they were of course, and of necessity, superseded while that occupation lasted." If the public political laws of Mexico were superseded during the period of the invasion, and while the occupation lasted, it follows, *ex vi termini*, that others took their place—those of the United States, of course. Being superseded, they ceased to exist, temporarily at least; for two conflicting constitutions or systems of political law could not co-exist, and so the honorable Senator admits. If they had ceased to exist, they could not be violated. Where there is no law there can be no transgression. Now, suppose some Mexican officer, commanding a fortress in some province occupied by the American army, had sold it to the American general, would he have been guilty of treason? Undoubtedly. But treason is an offence against the Government, a political offence, an offence against the political laws of the State; and it will be said that the Mexican Government had not ceased to exist, and that elsewhere, except in the territories occupied by the invading army, these laws were in force; and that treason, wherever committed, was an offence against the Government and against them. Suppose, however, and the supposition is legitimate, that such occupation as our army held of certain provinces had extended to all the provinces of the Republic. What then? Why, that the laws being suspended, superseded, and for the time being out of existence, there could be no offence against them. Such a position as that assumed by the Senator, in my judgment, is not maintainable. Military invasion and occupation do not suspend or abrogate the laws; they only prevent their execution for the time being.

I will now notice another argument used by the honorable Senator to fortify his position that slavery has a legal existence in the territories acquired from Mexico, notwithstanding its abolition in the mother country. It is drawn from the fact that slaves accompanied our army during the invasion, and that even Gen. Taylor was attended by slaves whose services he exacted during the whole campaign. This, he asserts, so upright a man as the old hero of Buena Vista would not have done, if he had considered Mexico a jurisdiction in which slavery was prohibited. This argument was, I presume, used as a mere playful interlude to the more serious ones which preceded and followed it, and which were enforced with so much ingenuity and elegance of diction; for the honorable Senator could not have been in earnest in supposing that either General Taylor or any officer or soldier of his army, would stop to inquire whether his conduct squared in every particular with the requirements of Mexican municipal law. If General Taylor had felt himself restrained in the conduct of the war by the fear of infringing the Mexican statutes, his first look-out would have been for the penalty for *assault and battery;* and his next would have been to consult a lawyer to know whether he would make himself liable to an action of *quare clausum fregit*, by entering the close and treading down the grass and herbage of the Mexicans! But, seriously, what is there in the fact that slaves accompanied the army in its progress in Mexico, and came back slaves, and continue to be so? Is it a matter of surprise, that, in the midst of a struggle threatening the existence of the nation, and which ended virtually in its dismemberment, the Mexican tribunals did not advert to the fact that a relation existed between individuals in the enemy's army which the laws of Mexico condemned? By what process does he suppose an American officer and his slave could have been brought before a Mexican tribunal to have judgment pronounced upon their rights? He has said himself that the laws were suspended. This I do not admit; but the Mexican tribunals were closed, and their judges fugitives. And it was no time for the adjudication of rights between individuals in the enemy's camp, even if the swords of the conquerors had not been stronger than the maces of the tipstaves. But if he meant, instead of the Mexican laws giving freedom to the slaves, that having sojourned in Mexico (Mexico being free) they are entitled to freedom at home, I have only to say, that if it even be so, (of which I am by no means certain,) there has been no trial of the question, and therefore no legitimate inference to support the view of the subject which he has taken.

The last argument of the honorable Senator to which I desire to call attention is that which he draws from peonage—a condition of a class of society existing by authority of the Mexican laws. He assumes, and justly I think, that if slavery exist by force of municipal law, so also does peonage; and that if the municipal law, abolishing slavery, be in force in the Territories, it must also be in force to establish peonage. I do not see how this conclusion is to be escaped from, however repugnant such a relation may be to our feelings and sympathies. That it is not repugnant to the Constitution of the United States, the honorable Senator has proved, by showing that the constitution of Vermont not only recognised, but established a condition precisely similar to that of Mexican peonage. If the constitution of the United States tolerated such a condition in Vermont, it will do so likewise in New Mexico and Utah. I have no doubt, therefore, that peonage, being a creature of the municipal laws, exists at present in the territories ceded to us by Mexico; and, indeed, I am informed that such is the fact, though to a very limited extent.

There is one other ground on which it is contended that slaves may be carried to and holden in a portion of New Mexico; that portion of it which is alleged to have been conquered by and to belong to Texas. In the first place, allow me to say that it is extremely doubtful whether any part of New Mexico belongs to Texas by conquest or otherwise. But, be this as it may, the laws of Texas were never effectually extended to New Mexico; and if they were not, the ancient laws remain in full force. I have already shown that none but the public political laws of a conquering State are carried by conquest into the conquered territories; and that the civil and municipal laws of such territories remain in force until expressly repealed. Such was the decision of the Supreme Court of Mississippi in the case of Harry and others vs. Decker and Hopkins; Walker's reports, page 42. The language of the court is as follows:

"During our revolutionary war, it (the Northwestern Territory) was conquered by the arms of Virginia; but there has been exhibited no evidence to show that the laws of Virginia were ever extended to that country after the conquest, or that Great Britain, after the treaty of 1763, by which she obtained it, ever changed the laws then existing in the province. I have carefully examined the acts of Virginia, and can find no provision extending its laws to that district of country. I think, then, that it is undeniable that the laws as they existed while it was a province of France were the municipal laws of the country."

And further on, still pursuing the subject, and speaking of the Northwestern Territories, the court says:

"As conquered countries, they were subject to such laws as the conquerors chose to impose; but that the Legislature of Virginia, not making any change in their laws, the ancient laws remained in full force."

Thus it appears that even if the claim of conquest set up for Texas be true, still, if she did not extend her laws to her conquest, "the ancient laws remain in full force," and slavery is excluded.

I have thus, Mr. President, endeavored to show that we are enjoined by the stipulations of the treaty, as well as by the ordinary duty incumbent on us as enlightened legislators, to afford governments to the territories acquired from Mexico; and that this duty becomes the more imperative, in view of the confusion and disorder which prevail, and the great anxiety of the people for the establishment of territorial governments. I have also endeavored to show—and so far, at least, I think I have been successful, that slavery has little chance to find a foothold in them, unless the non-action policy be adopted. If it be, in the confusion and lawlessness which prevail, Texas may swallow up New Mexico, and plant slavery upon the soil of the Territories. In this, in my judgment, consists the only danger. But give to them the benefits of government, with courts to enforce the existing laws, and, my word for it, the withering influence of slavery will never reach them. I have no apprehension that it will ever be carried thither from the old States on the Atlantic, or the newer ones on the Mississippi. It would be an act very little short of absolute madness in the people of any of these States to carry their slaves across lands as fertile as the sun shines upon, perfectly adapted to slave labor and slave products, and convenient to good markets, in order to reach the almost inaccessible and barren regions of New Mexico and Utah. Sir, if not an act of madness to do so, it would be one of the extremest folly. In the great fertile valley of the Mississippi are millions of acres of land which the foot of industry has never trod, and the hand of cultivation never touched, waiting to be rendered fruitful. These lands are adapted to the growth of sugar, cotton, and tobacco, and lie within the limits of slave States, where the institution is both popular and secure. Is it likely, then, that masters would carry their slaves to a country which is barren in the main, and where it is more than likely they would become free the moment they set their feet upon its soil? There is one other fact which seems to me conclusive against slavery ever reaching New Mexico and Utah from the Atlantic and Mississippi States. It is the price of labor. In these last mentioned States the labor of a slave is worth from $125 to $150 a year. In New Mexico labor can be employed at the rate of from $40 to $50 a year. I repeat, therefore, give governments to the Territories, with tribunals to execute the laws, and, though we failed in applying the Proviso, we shall succeed in excluding slavery.

The next provision of the bill is for the settlement of the northern boundary of Texas. The bill provides that this boundary shall be a line "beginning at the point on the Rio del Norte, commonly called El Paso, and running up that river twenty miles, measured by a straight line thereon, and thence eastwardly to a point where the hundredth degree of west longitude crosses Red river, being the southwest angle in the line designated between the United States and Mexico, and the same angle in the line of the territory set apart for the Indians by the United States." It also provides that in consideration of the cession to the United States by Texas of the territory lying north of the proposed line, and now claimed by her, she shall receive a certain sum of money to be appropriated to the payment of that portion of the debt of Texas for which her revenues were pledged previously to annexation, and after the paymemt of that portion of the debt of Texas for which her revenues were pledged previously to annexation, and after the payment of such portion of the debt, the balance, if any, to be applied to such objects as Texas herself may think proper.

I presume no one will deny the importance of settling the disputed boundary between Texas and New Mexico. I have already shown that there is great danger of a collision between the adverse parties. A state of fearful exasperation against Texas, on the part of the people of the Territory, exists; and that exasperation is becoming more embittered every day by the encroachments of Texas. As I have previously stated, in the course of these remarks, Texas is engaged in establishing her jurisdiction over a large portion of New Mexico, which was never subjugated by her arms nor subject to her laws. A commissioner appointed by Texas is now at work organizing counties and extending her jurisdiction, and every thing indicates a determination on her part to swallow up all of the Territory of New Mexico that is valuable in her claim. Something, therefore, is necessary to be done to ascertain and

settle the boundary, so that Texas may be restrained within her own limits. If it be not done, New Mexico will be overrun, and her territory, now free, doomed to slavery against her consent.

The honorable Senator from New Jersey (Mr. DAYTON) says that the Government has power to protect New Mexico from the encroachments of Texas, and that if she continues them she may "find a lion in her path." According to his view of the case—and it was a strong one, though my confidence in its soundness has been somewhat shaken by the argument of the Senator from Georgia, (Mr. BERRIEN)—her encroachments have already extended hundreds of miles, and yet the lion sleeps. His roar has not alarmed Texas, nor turned her back from her design. But, dropping figures and adopting facts, what do we see? The commander of the United States forces and military governor of the Territory, Lieut. Col. Munroe, quietly acquiesces in the encroachments of Texas, and issues orders to his subordinates to observe a "rigid non-interference"—in other words, not to molest Texas in the attempt she is making to extend her authority over New Mexico. With the Senator from New Jersey, I admit the power of the Government of the United States to protect New Mexico and check Texas in her encroachments; and I had supposed that it would consider it its duty to preserve the *status quo* the parties stood. But it seems it has adopted a different line of policy—that of neutrality—on the ground, I presume, that it would be wrong to interfere until the question of boundary between the parties is settled. This proves the necessity of a speedy adjustment of it by Congress. It is evident there is no security for New Mexico from any other quarter or by any other means.

But it is said the sum proposed to be paid is altogether out of proportion to the territory which Texas is required to cede to the United States, even if her claim to it were a valid one. My own impression has been that the claim of Texas to a very large portion of the territory in dispute was a merely colorable one, though I confess my impression, in that respect, was shaken by the argument of the Senator from Georgia (Mr. BERRIEN) and that of the Senator from Texas, (Mr. RUSK,) made some days since. But I have never examined the question thoroughly for myself, and therefore shall not pronounce any decided opinion upon it. I regard it, however, as a fair question for settlement, and shall vote for such sum as I believe to be a proper one under all the circumstances.

The whole area of Texas, in square miles, according to her act of boundary, passed in 1836, is 325,000; and the number of square miles north of the line proposed by the bill is about 108,000, or one-third of the whole. All the territory north of this line is to be ceded to the United States in consideration of a sum of money to be paid to her. The amount was not definitely agreed upon, for reasons already stated by the chairman of the committee, (Mr. CLAY.) But means will not be wanting to approximate to what will be a proper sum. A few days since the honorable Senator from Missouri (Mr. BENTON) informed the Senate that he had looked into the matter, and was prepared to give reasons for such sum as he should indicate when the subject should come up in such form as in his judgment would be proper. Now, Mr. President, although the honorable Senator has not intimated what would be a proper sum to be paid to Texas for the portion of the territory lying north of the proposed line, he has nevertheless furnished us with a clue by which his opinion on the subject may be approximated. At an early period of the session he introduced into the Senate a bill, (I think No. 56 upon our files,) the object of which was to reduce the limits of Texas, and create hereafter a new State. It is true the boundary proposed by this bill is not the same as that proposed by the bill now under consideration; but it is not so entirely variant from it as not to be useful in ascertaining the sum proper to be paid. The bill of the honorable Senator proposes *fifteen millions* of dollars as the sum to be paid to Texas for her relinquishment of the territory exterior to the boundaries which he has prescribed for her. The sum proposed by the Senator from Missouri is a large one—larger than I would be willing to pay. I am disposed to be liberal to Texas, and to put her in a situation to be just to her creditors. And though I do not entirely concur in the opinion expressed a few days since by the honorable Senator from New York, (Mr. SEWARD,) that the United States are bound in justice and equity to pay the claims of the creditors of Texas all that is due to them, I agree that we are bound to pay that class of creditors to whom she had pledged her revenues previous to annexation. The U. States having received and appropriated these revenues to their own purposes, are bound in equity and good conscience to pay the creditors to whom they were pledged. If the parties to such a transaction had been individuals, I have little doubt that the party receiving the money would be compelled by a court of chancery to account to the party to whom it was pledged. But the Senator from New York goes further, and holds, as I have just stated, that the United States ought to pay the whole of the debt due by Texas. If this be so, the sum proposed by the Senator from Missouri, (Mr. BENTON,) allowing for the deduction that should be made from it, in consequence of the smaller amount of territory the bill under consideration requires her to cede, would probably not be too much. But whether the view of the Senator from New York be right or not, I am for dealing liberally with Texas. I am willing to pay her the three or four millions due to the creditors to whom she had pledged her revenues, and a liberal sum, in addition, for the territory which it is proposed she shall cede to the U. States. This territory, as I have before stated, contains about 108,000 square miles, or nearly 70,000,000 of acres.

The Senator from New Jersey (Mr. DAYTON) supposes that the territory proposed to be ceded to the United States is of very little value, and he arrives at this conclusion by comparing it with California, New Mexico, and Utah, for which we paid but $15,000,000. But he forgets that these $15,000,000 were but a small part of the consideration paid for these territories. Indemnity for the expenses of the war, amounting probably to $60,000,000, and the surrender of the claims of our citizens upon Mexico, amounting to $5,000,000 more, were all parts of the consideration paid; making a gross sum of nearly, if not quite, $80,000,000, as the price paid for them. He referred also to the price paid for Louisiana and Florida, to show the exorbitance of the sum proposed to be paid to Texas; but the price paid for these Territories forms no standard by which to judge of the value of the territory in question. Louisiana was of almost inappreciable value to the United States, not only as

commanding the outlet to the Gulf, but for the land within her limits. But both Louisiana and Florida belonged to governments remote from them, and who were tired of the expense of maintaining them. It was for this reason that we got the former for $15,000,000, and the latter for $5,000,000. The acquisition of these Territories was a great achievement; and yet France and Spain were probably greater gainers by the transaction than the United States. They got rid of expensive provinces, which were sooner or later likely to involve them in hostilities, or to become independent after a bloody and costly struggle. They, therefore, form no criterion by which to judge of the amount proper to be paid to Texas, which is a State of the Union, and whose gain is the gain of the whole country. To settle a difficulty, to buy peace, to save New Mexico, which is in danger of being swallowed up, and to withdraw from the influence of slavery as much territory as possible, I am disposed to be liberal.

But to return to the allegation that the territory proposed to be ceded is of very little value. In some respects this may be true, but in others it is not. For purposes of agriculture its value is probably small in comparison to its extent. But the limits of the country assigned to the Indians require to be enlarged; and as this territory is contiguous, it will be very suitable, and on that account valuable. I repeat, therefore, that I am willing, for all these reasons, to vote Texas a liberal sum for the relinquishment of her claim to the territory in question.

Mr. President, before concluding the desultory train of remarks which I have been pursuing, I desire to refer to a portion of the argument of the Senator from Massachusetts, (Mr. Davis,) which I neglected on Saturday. The honorable Senator introduced several subjects, as I thought, in invidious connexion with the measure now pending in this body—the Nashville Convention, the expedition of Lopez, and lastly, the repeal of the Tariff law of 1842, and the substitution for it of that of 1846, since so disastrous in its effects on some of the most important branches of American industry. The Senator disclaims all design of connecting the supporters of the compromise with the parties and subjects to which he referred; but we cannot shut our eyes to the fact that these subjects, and the parties to these enterprises, were introduced for a purpose, and for a purpose not favorable to the measure. Their introduction was for the purpose of connecting them, in some way or another, with the bill under consideration; otherwise it was aimless to introduce them; and the honorable Senator is not one to be suspected of doing a vain thing. But what connexion is there between the measure, or those who support it, and the designs of the Nashville Convention, the expedition of Lopez, or the repeal of the act of 1842? There is far more community of object between the Senator and those who act with him, and the members of the Nashville Convention, and the supporters of the policy embodied in the act of 1846, than between the latter parties and the supporters of this measure.

The honorable Senator blames the South for waging war upon the act of 1842, and the consequent prostration and destruction of the great interests of the North. In this warfare the South undoubtedly took part; but if the Senator will look about him, he will find that his Northern and Southern allies in the war now waged upon the compromise, led the van in the battle in which the Tariff of 1842 was destroyed. And if he will take the trouble to look a little further, he will see that the great champion of the compromise (Mr. Clay) has been for more than a quarter of a century the champion of the tariff; and that the great majority of the Southern supporters of the compromise resisted to the last the repeal of the act of 1842. In the memorable and eventful struggle of 1846, which terminated in the destruction of protection to American industry, on what side did my honorable friend from Georgia, (Mr. Berrien,) near me, do battle? In what ranks were the Senator from Maryland (Mr. Pearce) and the Senator from North Carolina (Mr. Mangum) found contending? In the ranks of those who stood up for the protection of American labor and the American laborer. The same is true of other Southern Senators who have retired from this theatre of clashing opinions and strife. These men, at the risk of their own political security, the imputation of selfish motives, and the charge of abandoning the interests of their own section of the country, with the courage of true statesmen, supported the right, leaving to time their vindication against all charges and all suspicions. And when the time comes to restore to the country the policy by which her resources are best developed, her labor best rewarded, and the general prosperity secured, to whom are we to look for aid—to the friends or enemies of the compromise? Amongst the Southern allies of the Senator in his war upon it, to what one will he look for aid to restore the prostrated and down-trodden prosperity of the North? Is there a single one to whom he can look with confidence for help? No; not one. If he would find aid, he must look elsewhere; he must go to its friends. But unless the existing difficulties are settled, and harmony and good feeling restored between the contending sections, will he find it even there? I fear not.

We have heard the Senator from Georgia, (Mr. Berrien,) and other Senators from the same section of the country, declare that, unless an honorable adjustment of the existing difficulties take place, they will never again risk their political security, or stand up against the sentiments of their own constituents, wisely or unwisely entertained. I was sorry to hear this emphatic declaration of their purpose in this respect; but I know enough of human nature not to be surprised at it. I regret it, deeply regret it; and for the sake of our suffering, perishing interests, hope that this unnatural warfare of the North against the South may be accommodated in a manner satisfactory to both. And while I would sacrifice no great principle of human freedom to promote such accommodation, I am anxiously solicitous it should take place; and I verily believe that the bill I have been considering proposes terms of accommodation that should be satisfactory to both sections of the country. While it will not extend slavery a single inch, it will take nothing from the South which she has a right to claim. California will be admitted into the Union on the terms prescribed by her own people, with a Government of her own choice, to work out her own political destiny in her own way. New Mexico and Utah will be provided with governments adapted to their condition, and our duty to them be thus performed; and the boundary of Texas peacefully and honorably settled. These things achieved, the harmony of the

country will be restored, and an era of good feeling, propitious to the interests and prosperity of the whole country and the preservation of the Union, ushered in. For the dawning of such a day every good citizen will prefer to a benign Providence his earnest supplications.

I have thus, Mr. President, imperfectly, and in a very desultory manner, examined the provisions of this bill, and am prepared to give them my support, severally or combined. The bill is not in all respects such as I could have wished it, as my votes upon the various amendments proposed to it testify. But I regard it as the most conformable to the wishes of my constituents and the interests of human freedom, which, under all the circumstances, it was practicable to pass. I think its practical effect will be to prevent the extension of human slavery, while at the same time it will restore harmony to the country. "North" and "South," which have become antagonistic terms, not geographically only, but also politically and socially, will assume their natural meaning. Sectional dissensions and animosities will cease, and we shall come at length practically to feel and realize that we are one people, separated, indeed, by State lines, and living under distinct State governments, but still one great, united, harmonious, and happy people. It will make the Union permanent. It will destroy nothing but the power of the demagogue. He will no longer have it in his power to engender discord by inflaming prejudices, which are founded on the ignorance which prevails in the one section of the country, of the feelings, opinions, and dispositions which prevail in the other.

Mr. President, these sectional animosities and prejudices are disastrous in their effects. They induce legislative warfare of section upon section; and in this way interests essential to the prosperity of the country are prostrated and destroyed. Let these animosities cease, and sectional prejudice slumber forever; and, when this is the case, we shall see the country, the whole country, bound forward anew on the road to wealth, and power, and greatness, with a rapidity which will cause the world to look on and marvel. But let them continue, and it requires no prophet to foretell that the progress of the country in improvement will be checked, and that henceforth we shall go forward at the slow and laggard pace of other nations, which have required centuries to perform what to us has been but the work of a generation.

It was my intention in the beginning to have examined the other measures which make up the total of the proposed compromise; but, as they are not before us, and as the condition of my health admonishes me to close my remarks, I will wait another opportunity to express my views in relation to them.

23

SPEECH

OF

MR. DAVIS, OF MASSACHUSETTS,

ON

THE COMPROMISE BILL.

DELIVERED

IN THE SENATE OF THE UNITED STATES, JUNE 28*th* and 29*th*, 1850.

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1850.

THE COMPROMISE BILL.

FRIDAY, *June* 28, 1850.

The Senate having under consideration the bill for the admission of California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and northern boundaries—

Mr. DAVIS said:

I have listened, Mr. President, through many months, to the discussion of this subject, with great interest, and a desire to do justice to the whole of it. And I have regretted with others the form and shape in which it is presented to us for our consideration and final decision.

The first portion of this bill makes provision for the introduction of California as a State into this Union. That is a measure, sir, which meets my approbation, and I am anxiously desirous to give to it my cordial support. I have supposed that there are reasons sufficient for the introduction of that Territory as a State into the Union. I have supposed that there was a population there which was sufficient in number, sufficient in respectability, and sufficient in intelligence, to manage a State organization with advantage to themselves and usefulness to the whole country. That, sir, is one great reason why she should be admitted; a reason which has hitherto been deemed sufficient.

Then, again, sir, this Territory is in a very remote portion of our country, looking out upon the Pacific, at the distance of thousands of miles from this seat of Government. That, again, furnishes reasons why the people there should have the benefit of all the powers which are conferred by a State organization. There are obvious reasons also, where a Territory is situated as California is, that her local interests should be protected by a local organization of as much efficiency as can be given to it, and every one can see that there is a very decided difference between a Territorial and a State organization for that purpose. But there are other considerations, many of which have been mentioned, and need not be again brought to view, meriting notice on this point, some of which are of a peculiar character. We have seen the disclosure of the most remarkable mineral wealth in that country, and that these United States have thus a new, great, and all-absorbing interest, which demands the protection of this Government to a greater degree than can be extended to it in the existing state of things. It seems to me, that if the United States have the purpose of protecting the great public interests which are vested in them in that Territory, it is indispensable that the power and effective jurisdiction of the Government should be stretched over it in some manner or other. As it now exists, it is left in most things to self-government, and the interests of the United States are left to take care of themselves; or rather not to be cared for at all. This, then, is an additional reason why we should attend promptly to this matter; and for this and other considerations, I have been anxious, for one, to come to a vote upon this subject, and in case this bill fails, to put California upon the course by itself. I have been anxious, also, from the outset, to disconnect her from other subjects; but in all this we have been overruled, and this subject is connected with others which I regret to say have become of a purely sectional character—the more difficult to be managed, and the more to be deprecated, because they are sectional, involving questions of very great delicacy, and, as some gentlemen think, of very great danger. Sir, I object to connecting California with subjects of this description. There seems to me to be no adequate motive, no just and sufficient reason why that should be done. The committee have frankly avowed the reasons which governed them in uniting these measures together, and, if I understand the purport of it, it is this, that the strong measures may assist in carrying the weak. They choose to apply this coercing power to Senators, to compel them, if they are anxious to vote to bring California into the Union, to vote also for another measure of which they do not approve. They are thus placed in a position in which they must violate their judgment to accomplish their anxious desires. Vote which way you will, you will be made to vote under a coercive power. It may be parliamentary, but still it is a measure which is none the more recommended to my judgment because it has parliamentary precedents, for it can be seen that the parliamentary rule is employed to coerce men to vote against that which they approve, and for that which they condemn. But let that pass. The Senate has decided that question, and we must meet it in the shape in which it presents itself to our consideration. I intend, for one, to do it, and to dispose of it according to the best of my judgment.

This is represented to us, sir, as a bill of compromise; as a bill of peace; as a bill of conciliation, that is to harmonize our distracted country. It is placed before us in that attitude, and we are called upon to act upon it as a measure that will bring with it all these blessings. Well, sir, if it is a bill

of compromise and conciliation it presupposes some matter of controversy and discussion in the community about which there is a great difference of opinion, and to understand whether it is or is not a healing measure, it is necessary to understand what is the cause of controversy.

Mr. President, there is a large party of the people of the non-slaveholding States which has long since announced to the world the opinion, in various ways, that slavery ought not to be extended into territory which is free. That opinion has been also announced in the Chambers of Congress. It has been entertained in a very large portion of this country, and by a great majority of its citizens. I am one among the number that have maintained the opinion that slavery ought not to be extended into territory that is free, which opinion I have on several occasions expressed here. But, sir, there is another large and respectable portion of the citizens of the United States that entertain precisely opposite opinions. They contend that they have the right to carry their slave property into territory which is free; and that it is taking from them a privilege which the Constitution secures to deny them that right. This is the issue between the parties. This is the exact point which, if tranquillity follows, is to be harmonized, settled, and adjusted by this bill.

The first inquiry, then, is, is the bill itself one of such provisions as will be likely to accomplish this purpose? Why, sir, the Senator from Kentucky [Mr. CLAY] frankly said to us, in his opening argument on this subject, that he concurred in this general sentiment of the country. He said, and he used stronger and more emphatic language than I shall now employ, that he was unwilling that slavery should be extended into territory which is now free. Sir, I hold just the opinion that he does in that respect, and the question is, how shall our views be carried out consistently with the state of opinion which exists in this country. I coincide with the Senator, and only desire that his opinion may prevail. If I could carry out these views and opinions by following my inclinations in this matter, I would put into a territorial bill, should one pass, the ordinance of 1787, and then I should be certain that the principles which I entertain would be carried into effect. But it is said, and perhaps with much truth, that it is quite impossible to carry through the two Houses of Congress the ordinance of '87, or the Wilmot proviso, as it is more familiarly called; and we are entreated, we are invoked, we are conjured to make some concession on this point for the peace and welfare of the country. If it is necessary to make concession, I am willing to concede almost anything but fundamental principles; but I am driven, when that proposition is made to me, to ask, what can I concede? What is there in this matter that I can concede, without conceding the whole? That is the point for consideration, what can I concede? Take the proposition as it is, slavery is to go into territory which is now free, or it is to be prohibited from going there. Now, sir, I ask every man who has turned his mind to this subject, to reflect upon it, and say whether there is any intermediate ground between these points; whether there is any platform upon which the two parties can meet and stand? Is it a thing that is capable of affording to anybody an intermediate space to stand upon? And does not concession, therefore, amount necessarily to a concession of the whole thing to the one side or the other? Is not that a fact that is apparent to every mind? I hold, sir, that it is a proposition entirely plain and clear that the ultimate effect of any decision which may be made on this point must necessarily end in the introduction of slavery into this territory, or the exclusion of slavery from it: one or the other—there can be no intermediate position. Whatever bill may be passed, gentlemen will find one or the other of these positions established. By it slavery will be either established or excluded. I, sir, am but a plain man, and I like to understand clearly what I do when I undertake to give my support to a measure, or to object to it; and I want to know the effect of this bill before I vote for it or against it. It becomes, therefore, necessary to look into the general provisions of it; and when I look into these provisions, I am driven to the conclusion that the Committee of Thirteen, who have had this subject under consideration, when they came together in their committee room, met with precisely the same difficulty that I have pointed out. And how did they surmount it? How did they dispose of it? The honorable Senator from Kentucky states to us that the remedy is non-intervention; in other words, do nothing, leave things as they are, *in statu quo*, as the gentleman suggests. I suppose, sir, that if that learned committee had discovered any ground of compromise; if they had found any intermediate station between these two points on which they could place themselves, and harmonize, and reconcile this matter, they would have given us that; but they must have met with the same difficulty which has presented itself to my mind, and they appear to be driven to the necessity of reaching the conclusion that non-intervention is the only remedy that they can suggest to Congress upon this subject.

And what, sir, is the effect of non-intervention? Why, I believe it leaves this whole thing untouched and unsettled, to stand, if it can so stand, upon the law as it is—upon the law as it exists in these territories. And what is that law? Let us understand what we vote about, if we vote to establish the law as it is.

The honorable chairman of the Committee of Thirteen—and no one can respect his opinion more than I do, and have been accustomed to do all my life—has an opinion upon this subject which is entitled to great deference and respect. Other Senators have opinions which coincide with him. These opinions are, that the laws in these territories are such that slavery cannot be sustained there—that they are free, and that they must remain free.

But, sir, do I not see precisely opposite opinions expressed by Senators of equal distinction—by learned professional gentlemen in this Chamber of the highest respectability, who have occupied high judicial stations? Their opinion is, that if things are left as they are, slavery will go there. These opinions, then, stand opposed to each other, and each is sustained by gentlemen of great learning and of great respectability. In this state of things, my honorable friend from Connecticut, [Mr. BALDWIN,] being able to satisfy himself what construction not this law will receive in the courts, a few days ago proposed to make it plain. He offered an explanatory amendment; and how was it received? There was a cry immediately, "That is the Wil-

mot proviso in disguise." This was elicited by a simple attempt to say, by an explanation, that the present law does exclude slavery, which coincides exactly with the opinion of the chairman of the committee. When this amendment was so offered, an honorable Senator rose on the other side of the Chamber, and said that he believed, from the manner of the honorable Senator from Connecticut, that the gentleman was serious, and believing that, he offered an amendment to the amendment which had been submitted. Thereupon another gentleman rose on the other side of the Chamber, and begged that the amendment to the amendment might be withdrawn, that the Senate might stamp upon the amendment of the Senator from Connecticut the reprobation which it deserved. Yes, sir, that they might stamp reprobation upon an attempt to show what the law is! This mystery is the only thing which recommends the bill. Under such circumstances, I am warned that I cannot safely say what the law is, or decide the question whether slavery would go into this territory provided this non-intervention policy is carried out. If it were certain that the law excludes slavery, the bill would fail to get much support which it now commands; if it were clear that it admits it, then the bill would sink by its own weight.

But, sir, without dwelling upon this scheme of non-intervention, I think the committee have failed to carry out even that view of the subject. On the contrary, they have put provisions in this bill which are very far from entitling it to the character of a bill of non-intervention. They have denied to the people of the territories the right of settling this question at all. The bill takes from the people of the territory the power of legislating upon the subject of slavery, although it gives them a Legislature. I think this is a very stringent proposition, especially when we cannot shut our eyes to the fact that for some years it has been contended in this Chamber by many learned and able Senators, that the people of the territories were the only proper tribunal to decide this question. And I think that opinion is now professedly adhered to by many who will vote for this bill with this provision. If the people be the only proper tribunal to decide this matter, the only proper forum to which it should be referred, this is a very stringent measure on the part of Congress, which denies to them that right, and which retains in Congress the whole legislative power upon that subject. In such a state of facts, I might well ask, how can a bill, with provisions like this, stop agitation and discussion—a bill denying to the people of the territories the right to settle this question, and in other respects doing nothing, except that it reserves the whole power to Congress to manage this matter as it may see fit? How can it heal the bloody wounds that have graced the tropes and figures of speech of Senators? How can it tranquilize the agitated public? How calm the distracted country? If the whole subject is to be left open for future discussion and future struggle, if things are to be left in *statu quo*, what is to hinder the community from agitating the question hereafter; what tendency will such a measure have to tranquilize the public mind and put a stop to the agitation which exists? I see nothing in this measure which, in my judgment, renders it at all probable that it will put a stop to the discussion in the press, or shut the mouths of the people on this subject. The door is left open, and left open in such a manner that the question will be discussed hereafter, and agitation go on as heretofore. All you gain, all you accomplish by this bill is to give territorial governments to these territories without the ordinance. It does not settle this question. It leaves it where it was. It leaves it open to future discussion, but gets rid of the prohibition of slavery. Now, I take leave to say, that if you would have a compromise, in the first place you must have a subject that is capable of being compromised. In the next place, you must have parties that are competent to enter into a compromise. And, lastly, you must have parties who can and will be bound by the compromise when it is made. I ask, has this bill any of these elements in it? I say, I see in it nothing of the kind which recommends it to favor.

This compromise, I confess, seems to me, so far as my observation has gone, to have been rather a one-sided matter, than a liberal view harmonizing different opinions. I do not complain of it as such; I only speak of its character as it has been developed. This proceeding has been somewhat one-sided from beginning to end. Those who have not chosen to acquiesce in it are called extremists, as if they were men who have little judgment and less understanding, and who know little of their duties here. Whatever may have been the purpose, there has been little of the urbanity that usually characterizes a conciliatory spirit. The raising of this committee shows a little what the temper of the Senate is. This matter had been very long under discussion; it had been considered very ably and fully before we reached this point of raising the committee. And, when it was ordered, how many votes were given for the gentlemen composing it, out of the sixty which belong to this body? They were carried in by a naked majority. The records, I believe, will show that fact. All the world knows that the slave territory of this country contains but a minority of the inhabitants of the country—but about one-third of the free population. And yet, when we come to make up the committee, the friends of compromise, being left to their own way to take whom they pleased, put seven—a majority of the whole—from the slave States upon the committee, to compromise a question which divides the country, and which is sectional in its character. And then, who compose the committee? I say with great respect—and I mention it only as a fact—that most of the members of that committee were selected because their opinions were known to be favorable to the wishes of the southern country. There are doubtless some exceptions, but the most of them were manifestly selected for that reason. The committee, though made up of gentlemen of the highest respectability, and, if you please, the leaders of the Senate, was not an exponent of the opinions prevalent in that body, but were raised by a bare majority to accomplish a fixed object.

And what element of compromise is there in this measure, formed by a committee raised in that manner, and substantially the exponent of but one of the parties? It seems to me that it contains concessions on but one side, and that does not amount to compromise. The bill, the whole proceeding, in my judgment, aims at but one thing. It aims to get rid of the ordinance of '87. That

is the purpose; that is the object, so far as I am able to comprehend it. That is the body and soul, the beginning and the end of the bill. Take that away, and there is nothing remaining. I will take leave here to read a single paragraph from the organ of the last Administration upon this point, which shows what the editors esteem to be important in this contest. The Union says:

"Its ultra southern opponents clamor vehemently against it. They contend that the South obtains nothing by it. Nothing! Why, what have we been principally contending against for the last three years? Against that detestable Wilmot proviso, which has alarmed and agitated the whole southern country, and which they have so justly and indignantly denounced, as destroying the equality of the sovereign States, and as hostile to the rights of the whole South."

It seems, then, that I am not alone in the opinion that the exclusion of the ordinance of 1787 is a paramount matter. But the committee pursue this subject a little further. They state a somewhat extraordinary fact, and that is, that this Wilmot proviso or ordinance of 1787 is an abstraction. They offer, I admit, a reason which seems plausible in support of the opinion which they entertain, but it is more plausible than sound, as I shall presently show, when I come to notice it. They say that this ancient ordinance of 1787, which has done its work, wherever it has been applied, so faithfully and so effectually, is an abstraction.

Mr. CLAY. The committee did not speak thus of the ordinance of 1787.

Mr. DAVIS. No, sir. But they spoke so of the Wilmot proviso, which is the same thing *verbatim*. The Wilmot proviso is merely a copy of the ordinance of 1787. It is nothing else. Well, what is an abstraction? In politics, a theoretic idea, a speculative opinion, a shadow, a thing of no importance practically. This good old ordinance which was applied to the Northwest Territory, and which has answered the purpose for which it was designed, wherever it has been applied, is pronounced to be an abstraction. I might add that this ordinance, although deemed an abstraction at this day, received the unanimous approbation of the old Congress at the time it passed. It received then and afterwards the support and approbation of great men in and out of that body. The principles it contained had the sanction of such great names in the slave States as Washington, as Jefferson, as Henry, as William Pinkney, and many others. I might add, that those were days when a different view was taken of slavery from that which now prevails. It was then considered a moral evil.

But I might stop and ask, if this be an abstraction, how it should happen that southern gentlemen, of great respectability, of great intellectual gifts and experience as statesmen, should meet in this Chamber, some two years ago, and address the people of that portion of the country in a public document, the purpose of which was to call their attention to the sentiments which were then prevailing in Congress, and to excite their alarm and their apprehension because of the peril and the danger which would grow out of the adoption of that same abstraction by Congress? And now, I may be permitted to ask, also, how it should happen that this address, and the other means which were employed to excite alarm and apprehension, should have created such a strong sense of peril that nearly every State Legislature in the southern country have had this subject under their consideration? I believe all those that have met since the address was delivered have taken this subject up, gravely responded to, and expressed their opinions upon it. And, so far as I know, they are one and all hostile to this proviso.

One of the States of the South has seen fit to resolve that if California, with a provison in her Constitution couched in the language of the ordinance prohibiting slavery, should be received as a State into the Union, it would be an agressive act against the rights of the South. I think that in the debate of this very day a paper of that description has been read. At any rate, it has been in the public papers. Another State makes it the duty of the Governor, in the contingency of the adoption of this Wilmot proviso by Congress, to call the State Legislature together to take so grave a matter into their consideration, and to deal with it as becomes a State. These same Legislatures also provided for the assembling of the Convention which has been recently held at Nashville. That Convention has assembled, and it has had this subject especially under its consideration, and evidently considers the expulsion of the ordinance from Congress as paramount to all other considerations.

Moreover, Mr. President, how does it happen, if this be an abstraction, a mere theoretical idea, that we have been debating it here six or seven months, and doing nothing else? How is it that an abstraction clogs the wheels of Government, and puts a stop to the business of the country? All I have to say on this point is comprised in a very brief remark. If it be an abstraction, it has done its work very effectually wherever it has been interposed; it has answered the purpose designed for it. And, except for consistency, it is a matter of no consideration with me what name you give it, provided it accomplishes the object in view.

This brings me to another consideration. It is said that there is a law of nature which precludes slavery from entering these territories just as effectually as it could be done by legislation. If I could entertain the belief that this view was well founded, I would be one of the last persons to interpose any objection whatever, because that would supersede the occasion of all regulations on the subject. If the law of nature is effectual in regard to this subject, that is all I desire—all I ask; I can expect to obtain nothing more by any enactment which may be made. But, after bestowing the greatest care and attention upon this subject, I am obliged, in candor, to confess that I am unable to bring my mind to that conclusion. I know that it is sustained by very great names—names for which we all feel deference and great respect. I find, on referring to the annual message of the late President, in 1848, that this doctrine was there substantially, nay, fully advanced, though perhaps not quite to the same extent to which it has since been carried. I have seen the opinions of other gentlemen of equal respectability, who occupied high places in the last Administration, and also the opinions which have been advanced in this Chamber and out of it by others. If I could bring my judgment to sanction that view of the subject, I should be most happy to do so, as it would relieve me from all embarrassment. But I

am constrained, after bestowing upon it the most careful consideration, to adopt another conclusion. It is said that slavery goes only where there is a demand for slave labor. Now, I would like to know where the place inhabited by men is in which there is not occasion for labor, and such labor as slaves perform? Slave labor may, in some things, be an unprofitable labor to employ. But we find slavery scattered throughout the world. The history of mankind shows, beyond all question, that it has existed in all ages, in all countries, in all climates, and upon all kinds of soil. That may be said substantially at this day. It may be maintained as an historical truth. And whoever turns his attention to the history of mankind will find that no peculiarity of climate is necessary to the maintenance of slavery. Nor is any particular product necessary to give to it support. You find it in Delaware and Texas, you find it in Maryland and in Louisiana, you find it in Missouri and in South Carolina, in Kentucky, in Georgia, and in Alabama. Every gentleman who hears me knows very well that there is a great diversity of pursuits and occupations in these slave States, as well as of climate and production. But slavery was formerly spread over nearly every State in New England—over New York and New Jersey. It existed there, and how long has it taken to uproot it in the States of New York, New Jersey, and Connecticut? I do not know whether at this day it is entirely extinct in those States.

Mr. BALDWIN. It is altogether extinct in Connecticut.

Mr. DAVIS. The gentleman says it is altogether extinct in Connecticut. But it is a late thing. It has taken nearly half a century to wear it out of those States, although the pursuits, the products, the population, and the business of the country might be supposed to be about as unfavorable to the maintenance of slavery as any spot which you could well select.

Now, it is said that slavery will probably never go into these territories. It is unnecessary for me to repeat the arguments of gentlemen on the other side of this Chamber upon this subject; but I may say, this discussion is proof of an earnest diversity of opinion upon it. This law of nature—the idea that slavery cannot exist—is repelled by southern gentlemen; and it must be perceived, that these gentlemen could have no occasion or motive to prosecute their objections to this bill, if this law of nature exists. And yet, we see them earnestly pursuing their object; and, in pursuing it, they declare distinctly—and one has said so to-day, upon this floor—that there is no earthly reason why slavery should not enter into this territory. So it was said by the honorable Senator from Virginia, [Mr. MASON,] some time ago, that he neither saw nor was able to comprehend any reason why slavery should not enter into these territories, and why it should not be profitably employed there.

I, sir, can see one way in which it may enter New Mexico. There is no doubt that cotton is produced in limited quantities there now, and the valley of the Colorado is said to be a place of great promise in this respect. But, though no cotton should be raised, yet slavery may find its way and be maintained by profits growing out of the traffic. I do not say it will; but it may assume this form, which I consider the most objectionable of all forms.

Then it is enough for me to say, that with these facts before me; with the opinions of gentlemen of much larger experience than I have on this subject, and whose opinions are entitled to great consideration; it is enough for me to say, that it leaves the question unsettled. It leaves it uncertain, to say the least, whether slavery will or will not go into the new territories. But, sir, I cannot say that I feel any serious doubt on this point. The history of the world proves that slavery goes wherever it is tolerated. It existed in the highlands of Scotland, and now exists in the frozen regions of Russia. I think, moreover, the old Congress so considered the matter when it passed the ordinance of 1787. That Congress gives us the best evidence that it had no faith in the existence of any law of nature which would exclude slavery from any part of the Northwestern Territory.

Mr. DAVIS here gave way for an adjournment.

SATURDAY, *June* 29, 1850.

Mr. DAVIS, of Massachusetts. Mr. President, when I gave way last evening for a motion to adjourn, I had noticed, in the first place, two reasons which had been urged upon our consideration why we should discard the ordinance of 1787—the first of which was, that it is an abstraction; and the second, that the laws of nature effectually inhibited slavery from going into the territory. I do not hesitate to say, that if I took the same view in regard to this matter that other gentlemen take, I should come to the same conclusion. I was about to add, that there was another reason, more plausible in its character, and, I think, more plausible than sound, offered to prove that this ordinance is an abstraction; and, as I suggested yesterday, I will now state the position.

The view taken is this: that when a territory becomes a State, it then acquires power to decide, at its own discretion, the question whether slavery shall exist in it or not. The State may admit it or prohibit it, it is said. The deduction made is, that the labors of Congress, prohibiting that in a territory which that territory could adopt the moment it became a State, would be a work of supererogation. In regard to this, there is a word to be said. I hold that we ought to be instructed by history in this matter. History is said to teach us by example, and we have examples in this respect. The ordinance of 1787 was applied to the whole of the Northwestern Territory, and the whole Northwestern Territory has since been organized into States. There are now five States of this Union from that territory, and they are all free States. Sir, the question whether slavery will or will not exist in a State, does not seem to me to depend upon the powers which it may exercise after it becomes a State. One of these States, I believe, made an attempt to introduce slavery, but the public voice decided against it. Now, without questioning the right and power of a State so to do—for I do not propose to go into that question at all, but, for the purposes of argument, I concede the right—I contend that all history and all example shows us very clearly, that as a State begins to settle, and continues to settle, during its territorial existence, so will be its destiny during its existence as a State. In other words, if it begins to settle with a free population, and continues so, it will go on and be free as a State; and,

on the other hand, the converse of this proposition is equally true, that if, in the territorial governments, the settlement commences with slavery, and during the territorial existence slavery is tolerated, whenever it comes into the Union it will come in a slave State. I believe all our history on this point shows this position to be undoubted, that every new State which, in its antecedent stages, adopted slavery, has continued it; and every such State continues to be a slave State. Well, then, I think southern gentlemen may very well plant themselves on the ground which they assume. They are perfectly secure upon it. Their ground is: "Let it alone. Leave the matter untouched. Only give slavery permission to enter the territory. Leave the option free, and that is all which is desired." I think they are right, if their purpose be, as it is, to extend slavery. All history shows, that such a course would be successful, and slavery would be found wherever it is permitted to go. There is also another reason why a territory in which slavery exists will be a slave State. When a State comes into the Union, it is a new Government, weak in resources, and it is out of its power to uproot slavery; because, if the slaves are emancipated, it follows, of course, that they must be paid for; and it is out of the power of a new State to comply, even if disposed so to do. It cannot be done. And, therefore, if this doctrine is carried out, and slavery may go into a territory, every territory will necessarily become a slave State. This is a doctrine that may well satisfy all the desires of the South.

Mr. CLAY. Will the Senator pardon me for putting a single question to him? It is this: Not what is the opinion of A or B, but what is the Senator's own opinion about the state of the law in New Mexico and Utah as to the right to carry slaves there?

Mr. DAVIS. That question seems not very pertinent to the matter which I am now considering, but I have no hesitation in saying that my impressions coincide with those of the Senator from Kentucky, that the law excludes slavery; but, at the same time, I do not set up my own opinion as conclusive against the opinions of very distinguished members in this body. It is enough to warn me that it would be presumptuous so to do, when I see learned and wise men assume a different position, and declare their judgment to be that slavery is not excluded by the laws as they are.

Then all I say is, that as a State begins, so its destiny on this point will be settled; and, therefore, when we set up the doctrine that because a State has this power to decide for itself, it makes the ordinance of 1787 an abstraction. I hold it to be a great mistake, and to be controverted by the history of the country.

I spoke also of the law of Nature. I have nothing to subjoin to that part of the argument. But I may be permitted to add this, that if either of these points can be made out satisfactorily, so as to bring conviction to the mind, we are now engaged in the most senseless controversy that ever existed. We are contending about a mere shadow, and the contention is unworthy of us. If the ordinance is an abstraction, it is wholly unimportant to all the parties contending here. So it is with regard to the law of Nature. If there is a law of Nature which constitutes an insuperable barrier, the contest is entirely senseless; there is neither judgment nor wisdom in it, because no one believes that southern gentlemen will send slaves where they cannot exist. Satisfy them that such a barrier does exist, and they will make no attempt to pass it. Legal provisions restraining slavery would, under such circumstances, be equally unimportant; for a perfect natural barrier, which cannot be passed, is more effectual than any human law.

The only deduction that I shall make, after having heard these questions discussed by gentlemen for six or seven months, and seen the subject occupy the whole attention of Congress, blocking and obstructing all other business, is this: there is no faith in these arguments; that gentlemen do not rely upon them; that they do not feel as if they could depend upon them at all. If it were otherwise the contest would long since have been ended.

Then, for these reasons, I think that the compromise, so far as it regards this particular point, the introduction or exclusion of slavery, is wholly inadequate for the purposes for which it is designed. It leaves things in the shape of an experiment, standing upon a law, the character of which cannot be ascertained to the satisfaction of anybody. And it does what I cannot help thinking is strongly objectionable; it leaves this question open for future controversy and experiment, to see if there cannot be some mode devised by which slavery can be introduced into this territory. That seems to be a fair and legitimate conclusion; to be a fair and just inference from the proposed compromise; and I, for one, am not disposed to consider that a settlement which settles nothing, and manifestly is not satisfactory either North or South.

There is another thing which connects itself with the question of compromise, and it is this. There is a disputed boundary between the State of Texas and New Mexico. That is certainly a matter that might be compromised; it is a matter suitable for adjustment. If there is a real, actual, and substantial dispute between the parties, it may be settled in this particular way, or in one of a diversity of ways.

Mr. RUSK. I desire to ask the Senator if he regards New Mexico as having been acquired as a political community under the treaty? He seems to regard the controversy as between New Mexico and Texas. If no political community came in under the treaty, then it is not between New Mexico and Texas, but between the United States and Texas.

Mr. DAVIS. If the Senator from Texas had listened to me for a moment he would have discovered that I should have fallen into no error on this point. At present I consider New Mexico as a territory of the United States, under the care and supervision of the United States. I do not view it as an independent political community, nor shall I treat it as such in the remarks I have to make. The United States, when the cession of this territory was made, acquired, in the first place, the sovereignty, the right of governing. That was one great thing which passed to us, and was the principal thing which was aimed at. The next thing was the public property which was owned by the Government of Mexico. That also passed to us. But, sir, I do not propose to enter at this time upon the question of boundary. It, in and of itself, is a subject which might occupy

hours in introducing and arranging the evidence, and I have neither the strength nor the disposition to go into the argument which appertains to this subject at this time. I threw out some of my views the other day, and referred to a part of the evidence. I may possibly, when the blank in the bill is proposed to be filled, take some notice of the subject. But I wish now merely to say, that if there is anything here to settle, it is a proper subject for compromise. But that depends on the further question, in whom is the title? Texas claims a portion of the territory of New Mexico which the United States purchased from the Republic of Mexico. The question between them is, where is the boundary? Now, the committee draw a line from some point above El Paso, at a distance of twenty miles, and carry it down eastwardly to where the one-hundredth degree of longitude intersects the Red river, this degree being at this point the old boundary of the United States. They propose that the United States shall have all north of that line, by paying some millions of dollars to Texas, and giving to Texas what is south of it. The question, then, is really, how far has Texas a right to extend her boundary westward from her original western limit, the river Nueces? She says her line west is the Rio Grande. Her claim, thus extended, covers the territory which the committee proposes to buy of her for a consideration. The question is, has Texas any right or title to New Mexico, which lies both sides of the Rio Grande, from El Paso to its source? Did, in other words, Texas own or possess any part of New Mexico? When we look at the evidence which accompanies the claim of Texas, it seems to me to be inadequate to support the title to any part or portion of the territory north of this line marked by the committee. I find it a well-settled proposition that Texas never had possession of any portion of this territory. We have the declaration of the late President of the United States, over and over again, that Texas never had possession. And, not only so, but she never had jurisdiction over any part of it; she never asserted any practical right to govern it, until since we entered upon this discussion; and, whatever claims she might have put in to sovereignty, she never exercised it in any part or portion of it, so far as I am able to ascertain; nor had she any other title to it by cession, or in any other way. Now, the question is, shall we pay a large sum of money, millions, to Texas, for that which we know now belongs to us, as we have the title deed, and have paid for it? Shall we do that? I do not know but, if we were to do that, it might be called a compromise. Undoubtedly it would settle the line; but certainly it would be a very extraordinary compromise, unless Texas can show some claim to this territory, if we pay a large sum of money for it; for she would acquire not only the large territory which she claims south of that line, which was acquired by the United States in the war with Mexico, but the money paid for the territory over which she never exercised any jurisdiction or had any right. This had better be called a gift than a compromise perhaps, or a purchase of peace. Until my views are somewhat altered from what they are at present, I cannot consistently vote to give Texas this large sum of money for territory which already belongs to the United States; nor can I be the advocate of purchasing peace.

I am opposed to the bill, then, as I have suggested. In the first place, I contend that so much of it as relates to compromise is not entitled to the character it assumes. I hold that it has nothing to recommend it, unless an abandonment of the principles of the ordinance of 1787 is a recommendation, as the bill leaves everything else open, professedly in *statu quo*, to be struggled for hereafter, and to be the subject of contention throughout the United States.

I object to it for another reason. I think there is a wiser, speedier, and a better way of settling this controversy. The Senator from Kentucky has addressed us with great force and emphasis on this subject, and he has challenged a comparison of all other ways with his mode of adjustment, condemning in severe if not harsh terms the course of the President. It is only necessary, then, that I should deal with the way of the committee, and if I show that it is defective, unacceptable, and unlikely to produce the promised results, then Congress should vote against it. Yet, I admit, this troublesome question should be settled, if it can be done honorably, and the sooner it is done the better it will be for the country. While I say this, I do not mean to admit that I apprehend those great and serious calamities which have been portrayed on many occasions. On the contrary, I think there is a greater excitement in the Chambers of Congress than anywhere else, and that the public mind is, in the main, tranquil on the subject. But I think there is a better and a more speedy mode of settling this question.

The honorable Senator from Kentucky asks what we would do. Sir, I am a very humble individual, and put no opinion of mine against his. I have not that presumption. But I am sent here to represent a portion of the community, and no other course can become a Senator than to act according to his judgment and his convictions. Then, acting under these convictions, I would follow out substantially the suggestions of the Executive. I would, in the first place, admit California as a State into this Union, for the reasons which I assigned yesterday, and which have been better expressed by others. This would end the controversy *pro tanto*.

Then what next would I do? If I could follow my inclination it would be, that if New Mexico desires a territorial government, as she seemed to some months ago, though that is questionable now, I would give her one, but I would keep her where she is. If she is free from slavery, I would put in a provision that should keep her so, and thus carry out the principle for which I contend. But at the same time I am obliged to admit that it cannot be done here, without some change of opinion. I therefore consider that plan hopeless. What next would I do? If this could not be done, I would do what under other circumstances I might hesitate to adopt, without more complete information. I would do it, nevertheless, to extricate us from the embarrassments which beset us. I would pass a bill authorizing New Mexico to form a State government and present her constitution here, and let that question be settled forever by her admission into the Union. I would go to that authority which is so much respected by gentlemen, the local inhabitants, and let them frame a constitution and produce it here; let them settle the question whether slavery shall or shall

not be among them. But that may be hopeless also. I suppose no such bill can go through Congress, and most likely the reason why it cannot lies in the fact that it would at once and forever settle controversy. Then the question arises, what is the next best thing that can be done? I am free to say that I have no doubt on that point. I say, then, let her follow the example of California, provided she feels that her Government has been what it has been represented here, a military despotism. This is an easy mode of escape from such troubles. Let her frame a State constitution and present herself for admission. While I say this, although I have heard much denunciation of this government, which is called military, I believe no gentleman, here or elsewhere, has ventured to say that it is not justly administered, or has ventured to say that it oppresses any citizen or does any wrong to the people. It has got a bad name, a military name, that is all.

A discussion was waked up this morning on this subject, denunciatory in its character, because an officer, called a civil and military governor, had ventured to summon the people of New Mexico, at their own request, to meet for the purpose which has been mentioned; that is, to form a constitution. This was spoken of as being an atrocious, unparalleled act; an act of usurpation, and one that ought to meet the condemnation of Congress, and which required that some law should be passed making it highly penal as a crime. Did not the Senator from Michigan [Mr. Cass] know that exactly such a government did exist here antecedent to the treaty of Hidalgo, and subsequent to the treaty, down to the time when this Administration came into office; and did not he approve it, and did not other gentlemen approve it, because the alternative was this or none? Why, if I understand it, the government that exists there, exists under the orders of the last Administration, having undergone no change. Nothing new has been done. It goes on just as it was found; it was then deemed necessary, and why does it not continue to be so, as Congress has provided no government? Their governor is a military or civil governor. He combines both elements in his character. I think that will be found to be so. I have had no opportunity to refer to authority, as this question sprung up suddenly, but I have no doubt it will turn out to be so. I am not commenting upon the propriety or impropriety of summoning a convention, nor about the propriety or the impropriety of the authority which this official is said to have exercised. I purposely pass over that, and will, after seeing the facts, make up my opinion, though I have little doubt the chief cause of alarm is, that matters are in a train to bring this controversy to an issue—to settle and finish it. Time will probably prove this to be the only outrage, the only crime which has been perpetrated.

What are the objections to permitting New Mexico to form a constitution and come into this Union as a State? The first objection—and it was started again this morning as if it were a new thing—is, that she has an unsettled boundary between her and Texas, and the extent of her territory depends upon the adjustment of this vexed question. What if she has such a boundary; is that an insuperable difficulty, or is it without precedent? Where was this same boundary question when Texas was admitted into the Union? Does not the honorable Senator from Texas know that when the resolutions of annexation were passed this very dispute existed between Texas and a foreign country? That then it constituted no obstacle, although it promised to involve us in a war? Surrounded as it was with impending perils, these circumstances constituted no insurmountable objection to the admission of Texas. She was admitted with all the consequences which it was known would follow upon a step of that sort; and, sir, the resolutions themselves provided for the adjustment of that very question, and it was settled we all know how. Now, it is said, forsooth, that New Mexico must stand out of this Union because its boundaries are unsettled. Sir, if she stands out as long as there was an unsettled boundary between Rhode Island and Massachusetts, she will remain outside some two hundred years.

The next objection is, that there is not population enough in this territory to authorize its formation into a State. Sir, I am not aware that any particular number of people of any kind is required in order to entitle a territory to admission as a State. Whenever Congress has admitted States into the Union, it has gone on the principle that, if there was a general fitness and propriety, under existing circumstances, in admitting them, they have been admitted. Population, I know, is one of the elements; and, sir, let us look a little into the condition and character of that of New Mexico. I have seen it stated within a few days, by the delegate from that territory, who seems to be an intelligent and respectable gentleman, that there were at least 90,000 persons under the Government of New Mexico. This number is made up partly of Americans, who have migrated thither, whose number upon the admission of New Mexico as a State everybody can see will greatly increase. It is made up, too, of persons of Spanish descent, who constitute the greater portion. The remainder are Pueblo Indians. These Pueblo Indians, I believe, amount to only some ten or twelve thousand. They are estimated at that. They are called by some gentlemen semi-barbarians, and declared to be unfit to exercise the duties and enjoy the privileges of civil government. Sir, I heard the honorable gentleman from Texas the other day [Mr. Rusk] pass a high eulogium upon the officer who has been inquiring into this subject, speaking of him as a very intelligent and reliable man. I remember reading several letters of this Mr. Calhoun to the War Department, in which he speaks of these Pueblo Indians. He says that they are an inoffensive people, owning large tracts of land, and possessing extensive herds and flocks, and that they are worthy, and, as he thinks, capable of exercising the elective franchise, and that they ought to be made voters. That is what is said in the official letters. The gentleman from Texas shakes his head; but I think he will find upon inquiry that it is so; and he, the Indian commissioner, says, in addition, that there is not a better population in New Mexico than these Pueblo Indians. Then, sir, I hold that if they are fit to exercise the elective franchise for one purpose, they are fit to exercise it for another.

But, sir, I do not wish to dwell upon these points. The committee propose to invest this territory with a territorial government. What sort of a government is that? It is to consist of a

Council, which is to be a legislative body, and a House of Representatives. And what is this legislative body to do when it comes together? It is to make laws for the territory, holding substantially the same relation to the people as a State government. Then what is the difference between a territorial government and a State government? The difference seems to be substantially this: that you appoint through the President of the United States the Executive of the territorial government and the judicial officers. But, sir, the territory itself makes the laws under which the people are to live. Let me ask, where is the most wisdom required: that necessary to the making of the laws, or that necessary to the administration of them? An honorable gentleman says that I must recollect that these laws are subject to revision, and that Congress may repeal them. The language of the bill is, that Congress may disapprove of them, and such disapproval repeals them. But how has that power been practically exercised? I do not recollect, during my experience here or during my service in this Government, there ever was a case in which Congress took that matter into consideration. I do not deny that there may have been some cases, but I do not recollect them. An honorable Senator says that the Executive is appointed by the President, and that his sanction is necessary, which is true; but who is to suggest the laws and go through with the business of legislation? It is the members appointed by the votes of the people; and if the people are fit to make such a government, I say they are fit to make a State government. Then, sir, I prefer that we should take this course, because I see that it produces a final and speedy settlement of this question, so far as regards New Mexico. The Senator from Kentucky, I know, condemns it, and almost treats it with contempt; but he must perceive that it has this great mark of wisdom to recommend it; it covers the whole subject and settles it, while his plan only continues dispute and agitation.

But I may be asked what I would do with Utah? I feel no embarrassment with regard to that. These Mormons went into the most obscure unfrequented spot that could be occupied by any people, in order, I believe, to escape from the people of the United States, and to be by themselves, where they could peaceably enjoy their own peculiar views. They went into a foreign territory, having, probably, little conception that we would so soon be upon their heels. They are there, and we have overtaken them. There is, however, but a small number of them, some ten or twelve thousand, and they have a government of their own, a government which is self constituted, and of which they make no complaint whatever. Justice among them is well administered; they have satisfactory laws to govern them, and to keep them in peace; the rights of person and property are respected, and, when necessary, protected. Then I say that I would postpone that subject until we settle this question with regard to New Mexico; and, you may rely upon it, no harm will result from such postponement, if the United States do what they ought, if it becomes necessary to protect them against the Indians. Let us settle the New Mexican business first, and the rest will follow in due season. There will be no difficulty, in my opinion. That is the way, sir, in which I would adjust this matter; I would follow substantially the plan indicated by the Executive, and I think it is a way which would more satisfactorily and speedily bring the thing to a close, much quicker, in my opinion, than the mode proposed by the bill.

Under all these circumstances, we are called upon to abandon the principles to which we have adhered, and leave this question open; and we are asked why we cling to this ordinance of 1787? I cling to it, because I consider it as establishing a very sound principle. I consider it a sound principle that slavery should not be extended to free territory. I limit my remarks to this principle, and this only. I have many times avowed my adhesion to the Constitution, and my determination to abide by its provisions in regard to slavery; and in contending for the principle which serves as the basis of my remarks, I neither intend to disclaim or to modify any of those opinions. I think, then, if this controversy can be settled by an adherence to the principle that territory now free should remain so, we may do very much to save the Constitution; we may do very much to promote and continue the peace of the country, and I will explain shortly a little more fully what I mean by it.

In order to understand the whole compass of this question, and to see what it embraces and what its elements really are, we must look abroad and see what is the tone and temper of the times—what the opinions which are prevalent to some extent are. I do not intend, sir, to call the great cotton-growing interest of this country ambitious. It is, nevertheless, a great interest, having great control in the affairs of this country—greater than any other interest in it, and it mingles more effectually and with greater success in the affairs of this Government than any other interest in the Union. At the same time, while I am not disposed to complain of this—for I know it is done by successful combinations of political power—I must say, that I sometimes see in the southern region signs of restlessness, evincing a determination to have things in their own way, without much regard to the harmony or stability of the Union.

While we have been sitting here and deliberating upon this subject, studying by what mode we may best adjust these questions, what do we see? Sir, a convention assembled from this section of the country; and what for? I know not, except it be to overawe and influence the doings of Congress. If any gentleman can find a better or wiser reason for this step, I should be gratified to adopt it; but I cannot much mistake if the opinions and declarations of some of the members of that body have been correctly reported. One, at least, has the credit, I hope without deserving it, of saying they would be better employed in running bullets and casting cannon than in making speeches and passing resolutions.

Well, sir, this is not the only thing in connection with this subject which is noticeable. While we have been deliberating upon this subject, meditating upon the question how this Union is to be saved, and how its various interests and the conflict of opinions are to be harmonized, there springs up in the bosom of this country a military expedition, and a regiment called the Kentucky regiment, another called the Louisiana regiment, and a battalion called the Mississippi battalion, start into existence and engage in an expedition of their own

contriving, and, without authority, invade the ancient colony of a nation at peace with us. Yes, sir, the expedition had apparently no other than the express purpose of invading a colony of a nation between whom and ourselves there is existing a treaty of peace. Permit me, sir, to remark upon another fact, in connection with this, which possibly is more ominous than all the rest.

Sir, when the existence of this expedition was known, the Chief Magistrate of the United States, feeling bound by the duties imposed upon him to maintain the honor and the faith of the Union and to execute the laws, did what the power placed in his hands authorized him to do, to cause the plighted faith of the country to be respected and the laws to be carried into execution. What have we witnessed? When the leader of this expedition came back, and an attempt was made to arraign him for his crime, he was hailed as a patriot, engaged in honorable and meritorious service, while unmeasured denunciation is poured out from the press upon the Chief Magistrate of the country because he attempted to execute the duties confided to him by suppressing this outrage upon neutral rights, and holding those engaged in it answerable for a crime committed against the law.

Now, sir, what is at the bottom of all this? Why this feverish desire for acquisition? It cannot be a very important matter to the South to increase the amount of cotton, sugar, or rice which is produced—the motive to acquire new lands and new people cannot be found in such a desire We must look for other motives to sustain this eager pursuit of the extension of slavery. What, then, does this controversy reveal to us—a controversy which it is said threatens the safety of this Union, and said with truth if such lawless acts are countenanced? From the day when the annexation of Texas was publicly meditated to this time all movements for the acquisition of territory have been esteemed proofs of a desire to increase sectional power. There has been but one impression on the public mind on this head. The question has been viewed and treated both in and out of Congress as political in its character and consequences. The public have believed and have had reason to believe that the great object has been to increase in the halls of Congress the power of one interest, (which now nearly overwhelms us,) by introducing new States—States which sympathize with it, and which will coöperate with it in carrying into execution its views and plans of policy. I hope that this is not so, but I cannot very well shut my eyes against the inference. It is, however, immaterial what plans or purposes have been meditated. It is the consequences which come of such acquisitions which most interest us. We know that every additional slave State brings in two Senators, to be probably, as most of them are, the advocates of a policy adapted to the application of slave labor in a way to advance the interests of those who employ it. Sir, what remedy have we for this if annexation is to be continued by war and invasion? How shall we stay this restlessness which leads to the adoption of unlawful means? How shall we stop this unjustifiable desire of acquisition by force? I say, sir, as I said here two years ago, that there is but one remedy, and that is to plant the frontier with a free population. That is the remedy, and there is no other which can be effectual, because it will put an end to acquisitions by force. Those acquisitions which come by voluntary compact stand on quite a different footing.

Now, I would ask the Senator from Kentucky how his compromise act would stop the progress of such events as this, and what there is in his bill that is likely to restrain feeling or subject it to subordination? What is there in it that is likely to curb this zeal for unlawful acquisition, which is the disease that we are contending with? Sir, I must confess that I see nothing; and yet no settlement of this controversy can be of any avail without some assurance against the rupture of treaties and the violation of law. But this is not all the evidence of an uneasy restless feeling which indicates that political influence is the object to be attained. There are some other things that are deserving the consideration of Congress which have been brought to light in the convention to which I have referred. I will read a paragraph or two from the doings of that body, with a view that the tone and the feeling which actuated it may be understood, and that we may the better comprehend the causes of agitation. The first paragraph I shall read speaks to the South as follows:

"You have tamely acquiesced, until to hate and persecute the South has become a high passport to honor and power in the Union. You have unwisely stood still, whilst, year after year, the volume of anti-slavery policy and sympathy has swollen into unanimity throughout all the non-slaveholding States, and the sections of the Union now face each other in stern collision. You have waited until the Constitution of the United States has been *virtually abolished*, or, what is worse, is only what the majority in Congress think proper to make it."

Thus, sir, the Constitution is virtually abolished, or, what is worse, the arbitrary will of Congress is set up in the place of its provisions. Then, sir, we have another paragraph which will illustrate this a little further, and show who is charged with this contempt for the organic law:

"*Local and sectional* interests absorb the time and *business of Congress; and thus a sectional despotism, totally irresponsible* to the people of the South, constituted of the representatives in Congress from the non-slaveholding States, ignorant of our feelings, condition, and institutions, reigns at Washington. These are the fruits of your past forbearance and submission."

Sir, what local interest has absorbed the attention of Congress for the last six months? What sectional interest has occupied the whole attention of this Government? If they mean the southern portion of the country, the allegation is true; otherwise, it has very little application or foundation in truth.

Mr. DAWSON. It is the attempt to enforce the Wilmot proviso for the benefit of the North to which they have allusion.

Mr. DAVIS. I will read the paragraph again, sir, that it may be understood; for I do not think the Senator comprehends its import. This local and sectional despotism is constituted of the combined non-slaveholding States. These irresponsible despotic forces are the representatives in Congress of the non-slaveholding States, who, it is alleged, maintain their despotic sway here. Some members of Congress, who have always thought they were in a minority on most questions of power and policy, will learn that they have labored under a total misapprehension, and been frightful tyrants without being conscious of it. But the address goes on, and, after alleging that two people cannot live under the same government unless their interests are identical, it says, in speaking of interests which differ:

"But the great difference, the *one* great difference, the greatest which can exist among a people, *is the institution of slavery.* This alone sets apart the southern States as a peculiar people, with whom *independence* as to their internal policy is the condition of their existence. They *must rule themselves*, or perish."

A despotism reigns in the Chambers of Congress, a despotism created by the non-slaveholding States, and the cool commentary upon this state of things is: "These are the fruits of our past forbearance and submission." Then, sir, they condemn, in pointed terms, this forbearance and submission as if it were a criminal neglect of duty. They declare that two classes of people cannot live under the same government unless their interests are identical; and, after having laid down that axiom, they contrast a people having slavery with one having none, and the conclusion is, that "the great difference, the one great difference, the greatest which can exist among a people, is the institution of slavery. This alone sets apart—yes, sets apart, or separates—the southern States as a peculiar people, with whom independence, as to their internal policy, is the condition of their existence. They must rule themselves or perish."

"Independence as to their internal policy," is a condition of their existence. Sir, I think that these avowals cannot very well be misunderstood. The North is held up as tyrannical, vindictive, despotic; they aver that the non-slaveholding States have *virtually* abolished the Constitution of the country, and in place of that sacred instrument substituted its own arbitrary will. If the non-slaveholding States have been guilty of such outrage upon the Constitution, and such reckless unprincipled exercise of power, the South may very justly not only complain, but may seek relief from it. If the Constitution is virtually abolished, and the will of a majority in Congress stands in its place, the term despotism does not characterize the act too rashly. If there be any just foundation for these assertions, which I by no means admit, how can this bill remedy such wrongs, or harmonize and reconcile the opinions revealed in these complaints? The non-slaveholding States tyrannize over the slaveholding, the latter feel insecure, and the exact thing desired to counteract and restrain abuse, as they call it, is power—more power, more influence in the Senate. It is not a question of territory, except as territory gives new States, and new States add political power. Whatever other complexion these questions may put on, this is the great matter which lies at the bottom. This is the disease which demands a remedy; it is this which keeps the country in confusion and peril; and what is the remedy for it? What will stop its repetition? I repeat, sir, that it consists in maintaining the principle that territory already dedicated to freedom should not be turned into slave territory, and that this southern frontier of Mexico should be settled by free population. That is the remedy, sir, which will cure the disease, and it is a great mistake to suppose that we, in maintaining this doctrine, inflict any wrong or injustice upon the slaveholders. We only carry out a sound principle.

I have already intimated that the catalogue of wrongs embodied in the address of the Nashville Convention, and given to the public to justify the sectional movement which has been made, and other measures anticipated hereafter, is, like most such papers, adapted to the purpose in view; but let us put its allegations to the stern test of historical truth and see how they tally with it. Let us remember the charge is, that the non-slaveholding States are combined in Congress into a despotism, substituting their will for the Constitution. Can this statement be maintained? It implies as clearly as if it were said that the non-slaveholding States act in concert and rule with a high hand the affairs of this Government. If this be so, it is a matter of record, and the truth of it may be triumphantly sustained. What is there in our political history which authorizes such charges? How far are they justified in putting forth declarations such as I have read from that address? Sir, I have said that the cotton power was great; that it is at all times mixed with great influences in the affairs of this Government; and I now say that by its own strength and its own intellect, aided by the combinations which it has been able at most times and upon most emergencies to form, it has not only taken the lead in public policy, but has substantially, by legislation or vetoes, ruled this country through the larger portion of its history.

In the first place, sir, it has had, nearly through the whole period, an officer in the chair of the executive department of the Government, who harmonized with it in opinion and sympathyzed with it in all its affairs. Besides having had possession of the executive department of the Government, they have always had, at least within my recollection, possession of the court below, by a majority of members from that section. And it is to be borne in mind all the time that this interest constitutes but a minority of the people, little more than one-third the free population of the country. I will venture to say that who ever will searchthe records of this Government will find that a very large portion of the high places of honor and emolument, a very large portion of the places which are desirable in this Government, have fallen to the lot of gentlemen from that section of the country. I recollect very well that it was shrewdly remarked by a gentleman on the other side that they deserved them or they would not get them. That I am not disposed to question at this time, though it may imply a deficiency of merit elsewhere. But I am disposed to oppose these facts against this catalogue of wrongs which it is said has been inflicted by the non-slaveholding States. So much, then, for the doings of this inexorable majority of the non-slaveholding States governing and ruling the southern country. And I might ask, when and where has this reckless majority which has substituted its will for the constitution violated that instrument? When and where is there any proof that any party from the free States has ever been able at any time, if willing, to substitute its will for the provisions of the Constitution, and thus practically abolish the Constitution itself? If there is such an era in our history it can be pointed out; but I know of none.

I cannot stop to dwell on these matters. But it is perfectly obvious that most of these allegations are pure fiction. There is no foundation in the history of the Government to sustain or to support them. We naturally ask, how it is, and why it is, that this cotton interest is able to do so much, being a minority? How is it that it sways the affairs of a great country? I can show very easily, and in close connection with what is pertinent to this bill, how that happens. When I speak of this

great party, I know there are many in the South who have not coöperated with it in all things, but others have, and enough is found in the country to accomplish the object. But to proceed. We added Louisiana to this Confederacy. The great cotton interest took possession of it, and appropriated all that was valuable to its own use. We heard nothing then of a division of the acquisition between slavery and freedom. And on that territory the cotton interest has now three States that have their Senators on this floor. When the second of those States came in, a controversy sprung up. The free States seem to have waked out of a kind of dreamy sleep. One State, with two Senators on this floor to control the affairs of this Government, had been admitted as a slave State out of this territory. The non-slaveholding States had realized nothing, and now a second slaveholding State, Missouri, was offered for admission, and offered under circumstances which rendered it apparent that a third would follow. They began to ask why all this territory, by far the larger part of which was a wild unsettled region at the time of the cession, should be devoted to slavery. The controversy then arose which resulted in establishing the line of 36° 30'.

Three slaveholding States, Louisiana, Arkansas, and Missouri, have been admitted from this region of Louisiana, which was purchased by the United States. When Missouri came to be offered for admission, what was the ground then assumed by the South? Let us see how a great territory, acquired by purchase, and paid for out of the common treasure, was to be disposed of. This southern interest then went in for the whole, and they shook this Government to its very foundation, as the Senator from Kentucky informs us, on that very question. They shook this Government to its foundation on the question whether they should or should not have the whole of this territory and appropriate it to the uses of slavery. That matter was finally settled. After a sharp contest, the line of 36° 30' was established. And out of that part of the territory which was assigned to freedom, there has been added to this Union but one State, and that the youngest in it. We have on this floor but two Senators from the territory acquired by the North, from the Missouri compromise line. That is all from that or any other acquired territory. Thus ended this matter.

Then came Florida. We bought Florida. But as slavery existed among the population, though this too, was a wild and an almost uninhabited country, yet this interest was quietly allowed to appropriate it. It was all claimed and all taken because a few slaves were found there when the United States took possession. The principle then assumed was, that where slavery was, there it had a right to continue. And now, when we come to turn the tables upon you, and say that where freedom is there it has a right to be, and slavery shall be excluded, the converse of the proposition is opposed, and it is found to be a rule that works but one way, and in favor of but one interest. It goes to aid the extension of slavery, and displaces freedom to accomplish it. But, sir, I pass over this, as I have neither time nor inclination to dwell upon it, beyond remarking that we added in this way another or a fourth slave State out of purchased territory.

Then was sprung upon us the matter of Texas —an empire in itself, a vast country. Where then were all their notions of equity and equality about a division of the territory which now prevail? Where then was the North? Sleeping on her rights. Let the compact of Texas speak for itself. There was no hesitation in appropriating all Texas, and appropriating it by the resolution of annexation to the southern country. The Democracy did this.

The line of 36° 30' was, to be sure, put into those resolutions, but merely as a matter of form. It never touched an acre of Texas. It was put in, as has been explained in this discussion, at the close of the debate, and on that question gentlemen voted without any reference to geographical considerations. There was, as we are informed, no deliberation upon that question, nor was there any territory for the line to act upon, as facts now clearly prove. Texas came in, giving you one more State to be added to the Union, and two Senators. Besides that, provision was made in the resolutions of annexation for four more new States out of Texas, and care was taken, as far as it could be, that they should be slave States, a provision to that effect being inserted in the resolutions. That is the kind of division which was made in regard to Texas, and that is the share which the slaveholding States got. I speak of "share," because that is the doctrine of the day. Equilibrium of one interest against all others. These facts show how we have divided heretofore, and who has taken without hesitation the lion's share, as well as who has acquiesced in it without deeming it insult or degradation.

Texas was brought in. Then came the war. Everybody knows very well that one of the chief objects of that war was to get more territory. At any rate, as soon as the war was declared, the principle was avowed that we must have "indemnity for the past, and security for the future." That was interpreted by all the country to mean land. We acquired these territories by arms, and afterwards by purchase, paying all they were worth. How much by the one or the other, I will not undertake to say. At any rate, besides all the expenses of the war, we paid the sum of fifteen millions of dollars for them.

Now, sir, permit me, for one moment, to say a word about this matter of equilibrium, and I shall be very brief. It means, as nearly as I can understand it, keep what you have, and get what you can. Some gentlemen set up the doctrine here as if this single cotton interest, which all must admit is a minority, had a right to one half of the political power in the Senate, or to equal all the other interests of the country, if not to have a preponderance. This is a capital plan, for a minority to govern a majority. But, as it cannot be made certain, in the progress of things, by the admission of new slave States, it has been suggested that the Constitution should be so amended as to secure and make permanent southern ascendency, under the idea that slave property can in no other way be secure. The details of such a proposition I have never seen; but, be they what they may, there can be no difficulty in understanding the object. The purpose is, to give to one interest in the country the power to control the others in their legislation. If an amendment to the Constitution cannot be had, then other means may be employed. We may go on acquiring territory after territory—Cuba, or anything else—for these purposes.

It is quite time that we should look after these matters, and see to what they tend; for I am sure that the moment any one interest in this country has the control, the other great interests will be left in a deplorable condition. I neither ask it, nor desire it, for any interest whatever, however great it may be, however important it may be to the country.

But upon what ground is this claim to a division of the acquired territory placed? It is on the ground that it was acquired, to use the every-day phrase, "by the common blood and the common treasure" of the country. But this, if true, can give no individual right to the property. And the great mistake is, that gentlemen, when they talk of the right of carrying their slaves there, seem to confound individual right with the right of the Government; for they have no more right to go there and take up land and occupy it, than they have to go into Illinois, or any other place, and seize upon the public lands and devote them to their own use. They have no right of that description. They can have none. The property and the sovereignty is vested in the United States; it is only by their permission that they can go there; and they must go in conformity with the laws, if they go at all. Their property, like that of all others, must stand or fall by the law as it exists. If there is no law to sustain slavery, the question is, can the territorial government, if there be one, or the United States, if there be none, be compelled to make such a law? Is there any obligation of the kind? There is none whatever. Slavery may as well claim the right to enter a State against its laws as a Territory.

How was Louisiana acquired? Was it not by the "common treasure?" Was not the purchase money paid out of the Treasury of the country? Was it not the "common property" of the country? How was Florida acquired? Was she not paid for out of the Treasury of the country? How did we pay for Texas? She came in nominally without purchase. But she came in with a war hanging over her head. And I take it that no one will deny that the acquisition of that territory involved us in that war. It was the immediate cause of it. If any one desires to ascertain how much Texas cost, let him compute the expenses of that war; the sum total will show what Texas cost.

I do not complain of this at all, but bring it to notice as appropriate for consideration, and I hope, when the claim to territory for the benefit of a section is founded on "the common blood" and "the common treasure" of the country, it will not be forgotten that this section has of acquired territory enough to make five States of this Union, acquired by "the common blood" and "the common treasure" of the country. When this section talks of dividing the territory purchased of Mexico for fifteen millions, I hope these facts, so closely connected with a just division, will not be left unnoticed. While I have thus hinted that if a division is made it ought not to inure wholly to the benefit of one party, I must say, in regard to this "equilibrium," that it is a thing unknown to the Constitution—a thing undesirable in itself. It is dangerous to the peace and happiness and the best interests of the country, that any one interest should hold power and control over all the other interests, subjecting them to its will. What would be its effect? I have anticipated that by what I have already said. The result would be that it would make about one third paramount to two thirds. Looking upon this movement as a struggle for political power, I have noted these considerations as belonging to a full and complete view of the subject necessary to be understood before we yield to a demand for concession.

Now I pass to another fact, to show what an amount of influence this cotton interest has held and exercised. Since 1846 it has had the whole policy of this Government at its control. It then, with the aid of Texas, newly acquired, took the revenue system into its hands, and passed a law satisfactory to its own views and its own wishes. These cotton planters stretched their arms across the Atlantic ocean, and shook hands with the spinners of Europe. While the planters govern this country, the spinners govern the "United Kingdom." They have supplanted the old interests which ruled that country and taken possession of the political power. These two powers coalesced in 1846. And one of the results of this coalition is the tariff act of that year—a very injurious act to many interests of the country.

It was a combination of the interests of those who employ slave labor on this side with those who employ the oppressed and down-trodden labor of Europe, which is in a condition scarcely more enviable than that of slave labor. The cry was "cheap labor and cheap goods;" money was at the bottom of the whole of it. Who can help seeing that this combination exerted its great power against the free laborers of this country? Who can avoid seeing that the combination of the producer of the raw material with the manufacturer who employs the cheapest labor, presses upon and injures free labor? What is the tendency of it? Its tendency is to drag this free labor down to its own level—the level of the cheap labor of Europe and the level of the slave labor in this country. Like causes produce like effects. If you put a man to live here upon the means which are afforded a laborer in Europe, you will make of him a similar being, with as little elevation of mind and as little physical comfort—such influences has this interest by its political combinations been able to produce, in pursuing its own plans of policy.

And now, Mr. President, under these circumstances, with all these facts before us, I am asked to make concessions, as if they are due to a section of the country. And I am asked to make concessions which, if they have any influence at all, will necessarily increase the overgrown political power of this cotton interest. I am urged to vote for a bill that violates the principle that what is free shall remain so, by prohibiting any adjustment of the controversy, and leaving the matter in dispute unsettled. It gives what is sought for—time—which may work out the results which are desired. I am not disposed to leave this question to a contingent issue, nor to leave it in a shape that will not bring it to an adjustment. I am opposed to extending slavery by indirection into free territory. Can I, with these views, give my assent to the measure proposed? Can I make myself instrumental in perpetuating this cotton-planting policy—this policy of encouraging the cheapest labor of other countries—this policy which has a tendency necessarily to embarrass and to degrade the free labor of the country, without ultimate benefit to anybody? No; I can never engage in

any such work. The best interests of that section do not demand it; the interests elsewhere forbid it; patriotism forbids it.

Then, Mr. President, I may be asked, if I disapprove of this, what am I prepared to do with this controversy? How will I dispose of it? Such a question would be appropriate. But I have no difficulty on that point; none at all. All free Governments have causes of excitement. All free Governments have more or less vexed questions always before them, and under their consideration. Interests either do or are supposed to conflict. There is more or less disagreement on all subjects. Discussion is free, the press is free, and the force of truth is great. All controversies, thus far, have yielded to the public judgment, and the spirit of contention has always subsided under the preponderating weight of public opinion. Then I would say, go on as we have heretofore, and let him who sees fit to depart from the provisions of the Constitution take the responsibility of doing it. Be firm, and cling to the Constitution, which has provided a mode for testing public opinion, a way in which it may work out reforms or revolutions in a peaceable manner. The fundamental law, with some qualification, is, that a majority shall govern. In order that no evil may be long endured, the Constitution returns all power periodically to the people, and provides for a new choice by their vote. There are new elections for members of the other House, and for this House, in order that public opinion may be carried into effect. That is the constitutional mode of revolution. That is the constitutional mode of bringing men here whose wishes conform to the wishes and desires of the public. And it is the greatest and best mode of revolution that has ever been devised. It is the most certain means that can be devised to correct evils without violence. I leave it to that. And I say, go on reasoning and voting, and be firm and steadfast to principle. I have no threats to throw out. I have no menaces to fling in the face of anybody. I am for executing the Constitution according to its terms, by carrying them fully into effect. I will not distrust others in the execution of their duty, until I see good cause to do so. My remedy then will be found in these provisions of the Constitution, and in a firm and resolute purpose to adhere to them. And if the public judgment be wrong, there are better means to correct it than would be found in any measures of violence, or any concessions made through fear, which would probably only lead to further demands.

Now, Mr. President, I have touched, for I can do no more, upon all the facts connected with these subjects which I desired to bring to notice. There is, however, another matter connected with this supposed adjustment which I ought not to pass. That is the recovery of fugitive slaves. But, as that is a separate bill, which will be brought up, I suppose at some future day, I propose, whenever it does come up, to express my opinions upon it. There is one other subject left, and that is the abolition of the slave trade in this District. Whenever such a bill is introduced, I shall very cheerfully vote for it. Without entering more into these branches at this time, I leave the subject.

SPEECH

OF THE

HON. JEFFERSON DAVIS,

OF MISSISSIPPI,

ON THE

MEASURES OF COMPROMISE.

DELIVERED IN THE SENATE OF THE UNITED STATES, JUNE 28, 1850.

The Senate having under consideration the bill for the admission of California into the Union, the establishment of Territorial Governments for Utah and New Mexico, and making proposals to Texas for the settlement of her northern and western boundaries, and the pending question being upon the amendment offered some days ago by Mr. SOULE, Mr. DAVIS, of Mississippi, said:

Mr. PRESIDENT: When I became convinced that this bill could never be so amended by the Senate as to receive my vote, I determined not to trespass further on the patience of Senators with any remarks of mine until the bill should have reached its final stage. I therefore rise now to address the Senate reluctantly, and it shall be done briefly; reluctantly for the reason I have just given, and more reluctantly still because the speech of my colleague requires from me a reply. I would gladly have been spared this task. I have studiously avoided it during the progress of this debate; and had it not been that to-day, with more than ordinary violence, he directed his arraignment against those who entertain an opinion which I had the honor perhaps most prominently to announce, I should have allowed this occasion to pass, like others, without any exhibition on my part of the opposition of opinion between my colleague and myself.

Mr. FOOTE. My colleague must permit me to say, in justice to myself and to the understanding which exists between us, that I did not intend to include him in my remarks.

Mr. DAVIS. I do not intend to charge my colleague with a desire to assail me, but he certainly attacked opinions which I explicitly announced upon this floor, and in language that was offensive. Now he says he is——

Mr FOOTE. I will state frankly that the opinions which I assailed were first promulgated by the honorable Senator from Florida, (Mr. YULEE,) and my remarks were designed, so far as they were intended to have special application at all, to apply to him.

Mr. DAVIS. I do not claim to have originated the idea; but long before this bill was reported I announced my *ultimatum* to be the Missouri Compromise, with recognition below the line as distinct as the exclusion above it. That I believed to be the *ultimatum* of my constituents, as it is the *ultimatum* which the Nashville Convention, where our State was represented, and which it first suggested, has put forth.

Mr. FOOTE interposed.

Mr. DAVIS. The Senator says, "not his constituents." I thought, sir, that he and I represented the same constituency.

Mr. FOOTE made some further remarks.

Mr. DAVIS. I will reach that before I close my remarks, since the Senator makes the issue. But my colleague calls on all those who agreed with Mr. Calhoun when living, and are willing now to adhere to their opinions, to meet the issue, and defies them to answer the argument that he has this day presented. Sir, Mr. Calhoun denied the power of Congress to prohibit or to establish slavery; he asked nothing but the guaranties of the Constitution. That is all I ask now. But the Senator, in his zeal,

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which surely outruns his discretion, announces that he would scorn to receive protection from Congress for his constitutional rights. What, sir! scorn to receive protection for a constitutional right? For what was this Government founded, then? It is your constitutional right to have trial by jury: would my colleague scorn to receive provisions necessary to secure that? Would he scorn to receive, at the hands of this Government, the execution of the many trusts conferred upon it for the benefit and protection of its citizens at home and abroad? If not, why should he scorn to receive the protection of Congress for slave property, which will secure to the South the enjoyment in these Territories of those general rights of property, not denied to others, but which now fully inure to every portion of the Union? What, sir, is there humiliating in the attitude of the South, if it claims from Congress legislation to remove the obstructions of Mexican law? What is there humiliating in the attitude of an American citizen who claims that the Constitution and laws under which he was born, and which he is bound to support, shall be his shield upon American soil? Sir, our hardy mariner, who wanders to the other side of the globe upon which we live, looks back to the land from which he hails, and claims the shield of its laws and Constitution still to be over him. It is my pride to claim and to receive the protection of my constitutional rights at the hands of the Federal Government. It is my pride to sustain this Federal Government in the execution of those functions which make it emphatically the protector of our constitutional rights.

This is my position; and this I consider to be the true position of the South. It is not humbly to beg favors, but to expect the discharge of duties. My colleague first places the South in the attitude of opposing the renewal and extension of the Missouri Compromise, and quotes from Mr. Calhoun to establish that position. He refers then to a conversation between himself and the Senator from Indiana, (Mr. BRIGHT,) in the presence of the late President, (Mr. Polk,) to show his own friendship for that plan of settlement. I recollect well the introduction of that amendment by a Senator from Indiana; but I do not recollect a vote which showed the opposition of the South. I was not one of the Southern men with whom my colleague conversed, and who, he says, were opposed to the Missouri Compromise. I always——

Mr. FOOTE. I did not refer to my colleague.

Mr. DAVIS. I suppose you could not allude to me in that part of your remarks. But, Mr. President, my colleague must recollect, when he attacks the position upon which I stand before my constituents, that his remarks are to be, more than those of another, read by those constituents, and that to reply to them becomes, therefore, especially necessary to me. Then, I ask, when did the South ever show opposition to the Missouri compromise since it was acquiesced in by the Southern States? What vote establishes that fact? What speeches, made in the Senate or elsewhere, establish that fact? That proposition was voted down by Northern men in the House of Reprcseutatives, when offered to the Oregon bill by a membor from South Carolina; that proposition has been voted down in the Senate, I believe, every time it has been separately voted on, save once: that was when the Senator from Illinois (Mr. DOUGLAS) offered it in the terms on which we now advocate it, in the sense and spirit of the original compact. Then it was sustained by the South with unanimity, and then Mr. Calhoun was one of those whose vote is recorded among the ayes.

Mr. FOOTE. When was that?

Mr. DAVIS. On the 10th of August, 1848. He voted then for the amendment of the Senator from Illinois, declaring that the Missouri Compromise was to be extended in the sense and spirit of the original compromise. That is what we want now. We want the sense and spirit of the original compact honestly carried out. We do not seek to deceive others. It is our purpose not to be deceived. If others are willing honestly to carry out this compromise, and if they will meet the question like men, and say what they mean in unequivocal language, I am willing to meet them on that platform. But if they seek to delude the country, to conceal their purpose in hollow words, and to bring us into the adoption of a measure that carries nothing conclusively with it, then I have only to say I do not intend to deceive myself, nor to be made the instrument of deceiving or attempting to deceive those whom I represent.

But from this relation of opposition my colleague passes on and puts the South in the position of seeking the Missouri compromise as their choice—their desideratum. That is not my attitude either. The amendment now pending before the Senate is an amendment to limit the southern boundary of California by the parallel of the Missouri Compromise. Is that asking the Missouri Compromise as our desideratum? or is it not rather claiming that you shall not infringe the Missouri Compromise—that you shall not cross it with a State organized because of, and influenced by the anti-slavery feeling of Con-

gress?—driven into their organization and into the prohibition of slavery for the very purpose of gaining admission into the Union? Surely, Mr. President, that is not sufficient ground for saying that the South now come forward for the Missouri Compromise, and that it is their particular choice. They have taken it as an alternative heretofore, and respected it as a peace offering on the altar of fraternity. They now demand that you shall not violate it; but, so far as I know their opinion, and so far as I am any representative of it they claim now, as they always have claimed, their constitutional rights to be as broad as the Territories of the United States.

But, sir, in a spirit of concession and amity, and for the sake of that Union which is eulogized in such sounding phrases by those who alone disturb its harmony, and who we must therefore suppose do not feel for it with half such intensity as ourselves—in that spirit, and for that purpose, we are willing to restrict our rights—to carry out the compact made by the last generation, at the sacrifice of our rights in a large portion of the territory. Yes, sir, without asking from our brethren of the North that they should yield one jot or tittle in all the territory, we are willing to extend the line of 36° 30′ to the Pacific, and give to the North exclusion of slavery in the country above that line, without asking any peculiar privileges in the country below it. All of the territory south of 36° 30′ would remain free from contest or obstruction, open to every man in the United States to go and settle there, with every species of property, in the United States. For this most advantageous arrangement to the North, the Missouri Compromise line was drawn in 1820; for this it was extended when Texas was admitted; for this, now, when the admission of California is under discussion, we say we are ready again to extend the line to the Pacific, and close the disturbing question forever.

Mr. President, I could not imagine an association of freebooters so lost to that sense of justice which characterizes mankind, that they would engage in the acquisition of plunder, and then, when those who had stood shoulder to shoulder with them in every struggle, who had furnished a fair share of the means, who had borne a full proportion of the toil and danger and sacrifice of blood, claimed a division, that they should deprive them of all share in the acquired spoils. And can it be, sir, that a band of freebooters have a stronger sense of justice than the Senate of the United States? I will not pursue so offensive a parallel; but I ask every man who hears me to run the parallel in his own mind between the case which I have put and the acquisition which followed the Mexican war, and then ask himself whether, in honor, justice, and good faith, our friends at the North ought to deny to us a fair participation in the acquisitions of that war? I am one of those who claim that if the territory cannot be enjoyed in common, it should be divided, and that the whole question as to our right to enjoy that portion assigned to us should be finally determined by the act of division. I want an end of this controversy. I do not wish for an act which will merely change the issue and leave the contest open. I want something which will be final—something which will be truly that which it is constantly assumed this so-called Compromise bill is—a settlement of the question.

Let us, when we arrange a settlement, be sure that we reach the point at which controversy cannot again rise. How is that to be reached? Does any man here believe that either section of the Union will surrender its opinion upon the question? Surely not. By what means, then, are you to terminate the controversy so that it shall not be again revived? I say by extending that line, which has now the acquiesence of thirty years in both sections of the Union, a settled construction, and the confidence of the American people, until it reaches the limit of our possessions on the Pacific. By explicitly declaring the rights upon one side and upon the other, you will have terminated the controversy forever. If, according to the opinion of some Senators who have spoken on this subject, no territory shall be found into which any slaveholder would immigrate with his slaves, so be it. We but ask of you a fair opportunity. We ask of you, not all to which we are entitled as your equals, but merely an adherence to the compact which was made with you when the advantage was all on your side. We ask no more, and less than that, I trust, the South will never accept. But, sir, the opinion of Mr. Jefferson, endorsed by Mr. Calhoun, has been referred to in connexion with this question. I cordially approve of the position taken by both, in opposition to politico-geographical divisions, and as to the evil of geographical parties. I believe it is a misfortune that the Missouri Compromise ever was adopted. Far better if institutions had been left untrammelled to whatever determination the climate, soil, or the character of the people might dictate. Far better that the line had been jagged, and waving, and the localities of different institutions interlocked, so that the people holding and those not holding slaves should have been brought in juxtaposition, and have been better enabled to understand each other.

When a parallel of latitude was drawn across our territory, and declared to be the division between the slaveholding and non slaveholding States, well might Jefferson point

to it as an indication of the future disruption of the Union: when the wedge enters, we may anticipate the rending of the oak. But, sir, it has been happily found inadequate to the rending of our Union. Fraternity, patriotism, and good sense triumphed; the Compromise has been acquiesced in. The generation has grown up which is now governing the country since that Compromise was adopted. We stand now in another and a very different attitude towards the proposition from those by whom it was adopted. Although it was an evil in the beginning, it is now the best resource within our reach, if not the only thing which can produce permanence in the settlement of this vexatious controversy.

It seemed strange to me to hear the supposition that our lamented friend, Mr. Calhoun, would, if living, support the measure before us. That he who has been justly called by my colleague our leader upon this great issue between the North and the South, the champion who was taken away from us like a summer dried fountain when our need was the sorest; that he who never shrank from demanding on every occasion the whole rights of the South; that he who opposed the Missouri Compromise because it gave to the South less than was her right; that he who was always first of his friends in every contest involving Southern interests and Southern honor; that he should now be held up as an advocate of that "non intervention" which leaves in force the Mexican laws prohibiting our entrance into the country, and forbids Congress to remove those impediments which stand in the way of the enjoyment of our constitutional rights, is strange to me, surprising beyond expression. Sir, can any one of those who have served with Mr. Calhoun, or watched his course from however remote a distance, doubt where he would have been found upon this question? Can any one who has read the speech which closed his career in the Senate, doubt as to what were Mr. Calhoun's opinions upon all the points which have been raised in the progress of this debate? Surely none can do it.

But as to the other point, whether or not he would have agreed to the extension of the Missouri Compromise, with the recognition of slavery below the line, we are not left to mere conjecture. Not only did Mr. Calhoun vote for the Missouri Compromise, when offered, in the sense and spirit of the original compact, by the Senator from Illinois, and on that occasion indicate his willingness to acquiesce in such a settlement, but he voted for the same proposition, the Missouri Compromise line, as contained in what was called the Clayton Compromise bill. It is not because one asserts a constitutional right to be higher or broader than the basis of this partition, that it is therefore to be taken for granted he will, in every contingency reject it. Its history gives it a consideration above its merit. It has come down from 1820, renewed in the case of the State of Texas, both times diminishing the territorial strength of the South, and by her has been faithfully observed ever since it became, or was believed to have become, the settled policy in relation to the Territories of the United States. But, properly enough, the South has stood back to allow those who hold the power to pass or to reject it, to propose the line. It was once proposed by the Senator from Indiana, who now occupies the chair, (Mr BRIGHT,) and I well recollect the regret I felt on that occasion that it was not made sufficiently explicit, and brought to a vote. The same amendment, however, after it was withdrawn by the Senator from Indiana, was renewed by another member of the body, and was further amended by the Senator from Kentucky, (Mr. UNDERWOOD,) who proposed a distinct recognition of the right to carry slaves south of 36 deg. 30 min. It is not now, therefore, for the first time that the South has demanded a distinct acknowledgment of her right. At that time I had reason to hope, far, far more than I have now, that the amendment of the Senator from Kentucky would be agreed to, and that the Missouri Compromise would be fairly, justly, honorably carried out, in the sense and spirit of the original compact; the line being extended until its trace was lost in the waters of the western ocean.

Mr. UNDERWOOD. I have already, in the course of this debate, stated very briefly the history of that transaction. I will repeat it again, as it has been brought up to-day. The Senator now occupying the chair (Mr. BRIGHT) offered an amendment to what was called the Oregon bill, and it was printed. That amendment proposed 36 deg. 30 min. north latitude as the division of the territory, not stating distinctly that slavery would be tolerated on the southern side of that line. I proposed to amend that amendment by a distinct recognition of the right of the Southern people to take their slave property south of the line. My amendment was printed also. I am informed by the Senator from Georgia, behind me, (Mr. BERRIEN,) that the Senator from Indiana withdrew his amendment, and that it was renewed by him. But while these amendments were thus pending, the committee of eight was raised, and the bill, with the pending amendments, was referred to the committee of eight. In that committee I introduced my proposition

of distinctly recognising the right of Southern individuals to go south of that line 36 deg. 30 min. with their slave property, to be protected. Mr. Calhoun made a suggestion to me with regard to the language of the proposition which I submitted, and in the course of our conversation he stated, if it were adopted, he would submit to the line, although it did not meet his views. It was not what he required, but he would acquiesce in it, if adopted. In the committee, he constituted one of the four who voted for the proposition thus offered by myself; but it was rejected by a division of the committee—four to four. These are the facts in reference to the matter.

Mr. DAVIS, of Mississippi. I am glad to have received this minute explanation from the Senator from Kentucky upon a point of history which is valuable. It establishes several main points: First, that this is no new proposition; second, that it received the countenance of half the committee that was engaged on a compromise measure at a former period; and third, that the distinguished Southern statesman, long the recognised leader upon all questions peculiarly belonging to the rights and interests of the South, as a member of that Committee, acquiesced in the proposition of the Senator from Kentucky, voted for it, and was willing, with that condition, to extend the Missouri Compromise line across the continent, and thus close forever the only cause of serious discord between different sections of our Union. It was, therefore, with surprise—these things, at least many of them, being fresh in the memory of all—that I heard my colleague say, that any one had had the infamous falsehood and audacity to assert that Southern men had introduced this proposition to embarrass the bill before us, and prevent the adjustment of existing difficulties.

Mr. FOOTE. Will my colleague excuse me? I did not hear the beginning of his remark.

Mr. DAVIS. I will repeat it then. I said that it was with surprise I heard my colleague say, that any one had had the infamous falsehood and audacity to assert that Southern men had introduced the Missouri Compromise in order to embarrass the bill before us, and to prevent an adjustment.

Mr. FOOTE did not understand the remarks to have a personal application to himself.

Mr. DAVIS. My colleague might very well have relied on it that they did not. The uniform courtesy with which I have treated him might have assured him that my language was not intended to apply to him.

Mr. FOOTE. I knew my colleague did not so intend it, but it might have been so understood by some of those present.

Mr. DAVIS. I do not see how my language could have been so understood. I should be sorry if any one could suppose that I would charge my colleague upon this floor with crimes so degrading as those I was describing. Not at all. He distinctly stated that it was not here but elsewhere that the accusation was made. The accusation is one of those many falsehoods that are now floating through the air. It is a part of the work of that set of scavengers who hang over the Senate, and pounce upon every Southern man who advocates the rights and principles of his constituents. It is a part of the work of that class of men among the "letter writers" whose infamous business it is to invent or gather slander, and cater to a vitiated appetite for calumny; one of whom—the vilest Hessian of his class—I am informed is now receiving money to abuse myself and other Southern men for the manner in which we have felt it incumbent upon us to represent our constituents here.

Sir, I regret that the introduction of the subject has led me into even a passing notice of such things as these: it is not my habit thus to trespass on the Senate. Proud in the consciousness of my own rectitude, secure in the approval of my own constituents, I allow the presses which here surround us to pour in their artillery without fearing harm from their fire. I have allowed defunct politicians, resurrected for the purpose, to throw in their blows too. I have allowed speeches to go out, one after another, which have placed us in an attitude which does not belong to me, and I have looked upon it with the indifference which belongs to the assurance that I am right, and the security with which the approval of my constituents invests me. I am not prepared to consider the position of a United States Senator so low that he must stand at the mercy of every petty newspaper or degraded letter-writer. I cannot estimate the intelligence of my countrymen so cheaply as to believe I am to be judged by either the praise or condemnation of hired scribblers. I trust my life, which except when in the service of my country, has been spent in the State I partly represent, gives me a character not thus to be destroyed. I have hoped for, not feared the coming of the judgment of my constituents, though, from the very inception of this measure down to the present hour, the country has been flooded with missiles representing all who favor this particular bill as in favor of the Union, and every Southerner who opposes it as opposing it for purposes of disunion. Now, sir, when a respectable man shall ever make that charge against

me, I will answer him. When any respectable man shall ever accuse me of being a disunionist, I will answer him in monosyllables.

At present I have no wish to enter into an argument to prove that false, which I hope no gentleman will charge, and which my whole life utterly condemns. If I have a superstition, sir, which governs my mind and holds it captive, it is a superstitious reverence for the Union. If one can inherit a sentiment, I may be said to have inherited this from my revolutionary father. And if education can develop a sentiment in the heart and mind of man, surely mine has been such as would most develop feelings of attachment for the Union. But, sir, I have an allegiance to the State which I represent here. I have an allegiance to those who have intrusted their interests to me, which every consideration of faith and of duty, which every feeling of honor tells me is above all other political considerations. I trust I shall never find my allegiance there and here in conflict. God forbid that the day should ever come when to be true to my constituents is to be hostile to the Union. If, sir, we have reached that hour in the progress of our institutions, it is past the age to which the Union should have lived If we have got to the point where it is treason to the United States to protect the rights and interests of our constituents, I ask why should they longer be represented here? Why longer remain a part of the Union? If there is a dominant party in this Union which can deny to us equality, and the rights we derive through the Constitution; if we are no longer the freemen our fathers left us; if we are to be crushed by the power of an unrestrained majority, this is not the Union for which the blood of the revolution was shed; this is not the Union I was taught from my cradle to revere: this is not the Union in the service of which a large portion of my life has been passed; this is not the Union for which our fathers pledged their property, their lives, and their sacred honor. No, sir, this would be a central government, raised on the destruction of all the principles of the Constitution, and the first, the highest obligation of every man who has sworn to support that Constitution would be resistance to its usurpation. This is my position.

My colleague has truly represented the people of Mississippi as ardently attached to the Union I think he has not gone beyond the truth when he has placed Mississippi one of the first, if not the first of the States of the Confederation in attachment to it. But, sir, even that deep attachment and habitual reverence for the Union, common to us all—even that, it may become necessary to try by the touchstone of reason. It is not impossible that they should unfurl the flag of disunion. It is not impossible that violations of the Constitution and of their rights should drive them to that dread extremity. I feel well assured that they will never reach it until it has been twice and three times justified. If, when thus fully warranted, they want a standard-bearer, in default of a better, I am at their command. This is part of my doctrine of allegiance to the people of Mississippi, and with this feeling my colleague will not be surprised to learn that I regretted to hear him suppose a case, contemplate a contingency, in which he would *scorn* to represent the people of Mississippi.

Mr. Foote explained his position in relation to the bill and to disunion.

Mr. Davis, of Mississippi. I will not say what my opinion may be when the bill is brought to its final stage. I have heretofore declined to discuss the merits of the main bill on a mere question of amendment, and I will not do so now. I do not concur in opinion with my colleague. I do not consider it to be an adjustment, or anything approaching it. I consider that nothing is proposed by this bill which can serve to adjust the machine of our Government: it will only be pressed further in the direction to which it was previously leaning. The tendency is all one way; adjustment would require a policy the reverse of this bill, which contributes to the further depression of the weaker side, the South, and to the elevation of that which is already too high, the North. That is my view of it. But, sir, I have no purpose now or at any other time to announce upon what I am ready to go to the ultimate resort of disunion. I have not spoken of disunion to the Senate. No, sir; and whilst I hold a seat here, I shall make no such proposition. I shall never call on Mississippi to secede from the Union, but will remember that I am her representative on the floor of the Senate, and I shall ever leave it to her to judge how long she may require my services here; and when she may need them in a different field——

Mr. Foote. Will the Senator permit me for a moment?

Mr. Davis. Certainly.

Mr. Foote indicated certain newspaper articles containing disunion sentiments, &c.

Mr. Davis, of Mississippi. No doubt there have been articles of this kind in many newspapers and in many places. I have not read the article to which my colleague refers, or, if I had, I should not think it my duty to defend or reply to it. But it should not excite surprise if, from reading the articles in Northern papers, often very offensive

to the South, and which are thrown upon them at this time with especial energy, the editor had given violent articles in retaliation This is but to say that he is human, and influenced by passions liable to be excited. But I say again I am not here to prescribe the terms of secession. I am here to represent the people of Mississippi at the seat of the General Government. My duty is to sustain the Union and the Constitution, and whilst I am here that duty I will endeavor to perform. I have nothing to say about disunion. It is an alternative not to be anticipated—one to which I could only look forward as the last resort; but it is one, let me say, which, under certain contingencies, I am willing to meet; and I will leave my constituents to judge when that contingency shall arrive. I have no suggestion to make to them; for I am not one of those who seek to control the public opinion which they pretend to represent. My purpose is honestly to follow out the wishes of my constituents, as far as they accord with the Constitution I have sworn to support. I have nothing more to say upon that point. What the will of that constituency is, it is well for me to know, but not necessary for me to announce. What the views of our constituents may be relative to the conduct of my colleague and myself on the bill now pending, I preferred to leave without the expression of my opinion. I regret, therefore, that my colleague should have found it necessary, under any circumstances, to allude to the preferences of our constituents; for I certainly should never have alluded to that in relation to him. Notwithstanding the democratic papers of the State—every one of them that I have seen—come to me with marked expressions of their disapprobation of the bill, I chose not to bring the matter before the Senate. Notwithstanding my colleague on a former occasion introduced here resolutions of the Legislature of Mississippi most sternly disapproving the main feature of this bill——

Mr. Foote, (in his seat.) As a separate measure.

Mr. Davis. My colleague says so; then I must read the resolutions:

"*Resolutions of the Legislature of Mississippi, approved March* 6, 1850.

"*Resolved*, That the policy heretofore pursued by the Government of the United States, in regard to said territory, (reference was had to the territories acquired from Mexico,) in refusing to provide Territorial Government therefor, has been and is eminently calculated to promote, and is about to effect indirectly, the cherished object of the Abolitionists, which cannot be accomplished by direct legislation without a plain and palpable violation of the Constitution of the United States.

"*Resolved*, That the admission of California into the Union as a sovereign State, with its present constitution, the result of the aforesaid false and unjust policy on the part of the Government of the United States, would be an act of fraud and oppression on the rights of the people of the slaveholding States; and it is the sense of this Legislature that our Senators and Representatives should, to the extent of their ability, resist it by all honorable and constitutional means."

So spoke the Legislature who are considered peculiarly the constituency of Senators.

Mr. Foote. Will my colleague allow me to explain?

Mr. Davis. Oh, certainly.

Mr. Foote spoke at some length.

Mr. Davis. I have no controversy with newspapers or about them. Have no declarations to make about the public opinion to which I am invited, and more than willing to refer our conduct. I should be very sorry to lose my colleague; but am ready to transfer this controversy between us to the arena which he desires, without further remarks on the present occasion than seem to be necessary. I spoke first of Democratic papers, because I was elected with known adherence to the principles of the party called Democratic, and I did not close my remarks upon that point before I was asked to permit an explanation. I had intended to go on and say what I will say now—that the Whig papers and Whig politicians are divided, but that the Democratic papers and politicians are very generally on one side in regard to this subject. As to the matter of correspondence, my colleague is an able and zealous man, bred to the law, speaks freely and fully, and the country knows his opinions. No man could write a letter to him without knowing what would suit him in relation to Mr. Clay's bill. My own position is entirely the reverse. When the bill was introduced, I chose not to speak upon it at any length, and I indicated, from time to time, that if the bill was amended in certain particulars it would receive my vote. And, sir, let me say, much as Southern men have been denounced for retarding the decision of this measure, that this bill has lived thus long by our courtesy. These Southern men thus censured saved this bill from the tomahawk of the Northern men when it was first introduced. It has lived thus long at our mercy, and we deserve the thanks instead of the censure of its friends. At any time it was within our power to have consigned it to the tomb of the Senate's table.

And in what spirit has this been met? Amendments have been presented by us, they were declared non-essential, as some said, mere surplusage, but we, the particular class of Southern men thus arraigned, believed them to be important; and these, sir, have been voted down in face of the fact that your bill lived by our mercy. Now, sir, we have reached a stage in this proceeding when it is time that censure and denunciation here and elsewhere should cease; we have reached a state where further delay and discussion promises nothing desirable, and I am ready to give the vote which shall consign this bill to the table to-day. I have preferred a plan which should involve within its folds the creation of Territorial governments; for I feared that unless so included, those Territories would remain without governments. And this has been the only reason I have found for seeking to amend this bill, or delaying its final decapitation, if decapitation it is to receive. Is this, sir, the promptings of local prejudice?—is this a sectional consideration? What have we in Mississippi to be advantaged by the creation of Territorial governments in Utah and New Mexico—Territorial governments which do not recognize our right to migrate with our private property—which do not annul the Mexican laws, but which as is asserted by the first men of the Senate, leave those local laws in full force over the Territory? I can have no motive save to provide for the people of those remote districts the protection of Territorial governments.

But when this measure is coupled with a proposition to sever from Texas a large portion of the territory from which hereafter new slaveholding States are to be created, and to turn it over to the jurisdiction of this Congress, I say, sir, that we deserve especial consideration for the forbearance we have shown; for if this is to be the final form of the bill, far better for me is it, as a Southern man, to admit California in a separate bill, and save the whole of Texas for the future increase of Southern strength.

As I stated in the opening of my remarks, it was not my intention to have spoken at this time on the bill, and I have already extended my remarks, in consequence, perhaps, of interruptions, longer than I intended. I will not follow further the position of my colleague, because the matter will be transferred to another scene, where he and I can meet in the same kind feeling and good understanding, I trust, which we have here. Far be it from me, here or elsewhere, to seek to make my colleague a victim to what I believe to be his honest error. God knows how much I should have rejoiced to see him retrace his first steps on this question, and stand with me in what I am sure is the advocacy of the interests and will of Mississippi, and in conformity with the policy of the South, as it is now fully established. In relation to the particular amendment under debate, I will make a short statement, for I do not now propose to argue it.

Mr. HALE. It is now late, and I ask the Senator if he will give way to a motion to adjourn?

Mr. DAVIS assenting, the Senate adjourned.

FRIDAY, JUNE 29, 1850.

Mr. DAVIS. of Mississippi, resumed and concluded as follows:

Mr. PRESIDENT: When the Senate adjourned yesterday I was about to offer some statements to Senators in relation to the amendment proposed by the Senator from Louisiana. That amendment is in accordance with a Compromise which once gave peace to the country during a period of intense excitement; and resulted from a desire to save the Union from danger, with which it was thought to be seriously threatened. I cannot believe the danger was as imminent then as it is now. Then there were patriotic hearts in Congress from every section of the country that came to the rescue upon this vital question. Does such patriotism exist in the present Congress as was found in that of 1820? Are there not those around me who will meet this question with the devoted patriotism which the crisis demands, and, if need be, sacrifice themselves to the good of their country? If any other plan shall be presented which I believe would be final, would terminate this distracting controversy, and restore the fraternity which existed among our fathers, I would make whatever personal sacrifice such a plan would embrace. At an early stage of the present session I indicated my belief that the extension of the settlement could be made, and all that has transpired from that day to this has served to confirm me in that opinion. I was among those who supported the raising of this committee—not that the bills then before the Senate should be combined, but with the hope that it would bring in a measure of adjustment, compromise, or settlement which would receive from me an approbation which I could not give to those bills. The hope that something would be presented to us upon which we could all unite has met a grievous disappointment. Though it is not my purpose now to detain the Senate by a

general examination of the bill, I may be permitted to say, that I have found in its heterogenuous features nothing to commend it to my support as a Southern man, or as one who desires the restoration of fraternity to this republic. I see in it no termination of those elements of discord which now disturb us I see beyond it the same questions which now exist. Beyond it I see a higher excitement than that which surrounds us, and the distant vista is enveloped in a gloom from the contemplation of which I turn sorrowfully away. When the Missouri Compromise was adopted in 1820, as we were told yesterday, that sage and patriot, Mr. Jefferson, said it was but a reprieve. Such, sir, it has proved. The reprieve has expired, and its extension is denied. Now the measure is considered too extreme a concession from the North which then they enforced on the South. Now we, the minority, are to be brought at once to execution. Shall we submit, or shall we resist? This is a question to which freemen can give but one answer. Whatever may be the result, I, for one, feel myself bound to maintain, by every means at my command, those constitutional rights which I am here to represent If evil shall result from my course, upon the head of others must rest the responsibility. However sad may be its consequences to myself, if down it is my fate to fall, I shall retain in my misfortune the conscientious conviction of having done my duty as a representative, a patriot, and as an honest man.

In the remarks I propose to offer upon this question, I shall direct myself to other considerations than those broad and general views which have been presented by others, and probably will be presented again I shall contend for this amendment as a measure of expediency—as a measure which is written by the hand of Nature upon the surface of the country for which we propose to legislate—a measure which is indicated by the character of the people for whom we are about to provide governmental organization, and demanded by soil, climate, and productions, agricultural and mineral The fathers of this country were neither so unwise nor so profane as to deny the overruling Providence whose interposing hand was often felt in shaping the destiny of the infant republic. And if there be a special interposition—a guardian care over us still—I think it is manifested in the identity of the geographical and political considerations for the renewal of the compact, the extension of the line of 36 deg. 30 min., which is now presented. Never were political considerations more fully maintained by geographical reasons. In looking at the map of California, as it was remarked by the Senator from Louisiana, its unnatural boundaries most forcibly strike the eye—extending over impassible mountain barriers, including in one government plains which can have no other connexion, and embracing the whole seacoast, as if the frontier were marked out for an empire instead of a State of the confederacy; as though its purpose was to have a distinct international policy, to assume the command of the whole commerce of the Pacific, and of those vast countries which lie beyond it, and to control those naval stations on the western coast, which greatly tended to create a desire for its acquisition by the United States. There we see a country, backed by snow-covered mountains, a broad valley, with two rivers to water, and a coast-plain connected with it. This is the natural demarcation of a State. On the one side the Sacramento, and on the other the San Joachim, coming from the North and the South to pour their treasures into the great entrepot of the country, the harbor of San Francisco, their common and only receptacle. As well might we expect that the country watered by the Sacramento would be united to the valley of the Willamette, and become part of the Territory of Oregon, as that the country south of the waters of San Joachim would be included in the State of California Other motives no doubt combined with this reason to induce the delegates of that part of the Territory to object to the formation of a State Constitution, and the first operation of which, as I learn from my correspondence in that country, has had such effect that in most of the towns south of San Luis Obispo they have held public meetings for the purpose of petitioning Congress for a territorial organization and government adapted to their condition, such as it now is, and such as from natural causes it must remain.

But to return to the point which I promised to consider—the geographical arguments for this political line of 36 deg. 30 min. At the intersection of this parallel with the sea, as I am informed, the coast range of mountains terminates in a bold promontory that overhangs the ocean; thence eastward it passes over desert mountains, crosses the arid plain of the Monterey river, and enters the valley through which the San Joaquin flows south of the permanent tributaries of that river, passing between its southern branches and the Lake Tulares; which, it is represented to me, does not, as is usually shown on the maps, regularly flow into the San Joaquin, but only does so when, in time of freshet, the flats to its north, extending to the San Joaquin, are overflowed. Shut out from the sea breeze, this plain is represented as having almost tropical heat, and as being fully occupied by a quiet, harmless race of fishing Indians, to whom the

country is particularly adapted. But if it ever passes into the hands of those who require commercial ports, they must be sought in the south. Distance and facility of route leave no doubt that San Pedro and San Diego, not San Francisco, must be the ports of this section.

Then, am I not sustained when I say that the hand of Nature has written this line upon the country in characters which might have been read before it was possessed by man? But, again, the line of 36 deg. 30 min. divides the pastoral and agricultural, the semi-tropical country, from the mining and the grain-growing regions of the north. South of this line no mine has proved productive. North of it are the placers, which have, as by magic, drawn together the men who seek to constitute this State. Leaving Monterey, which is about six miles north of this parallel of 36 deg. 30 min., and following the valley of the Monterey river, we pass through a country only saved from the name of desert by the dilapidated missions which were established by the kindness of Spain, when the country was under the viceroyalty. For one hundred miles continue high, arid plains, unsuited for cultivation or any other purpose than for wide-ranging flocks and herds. Passing into the basin of Lake Tulares, there is a plain which is watered by small streams from the mountains, and which now supports a considerable population of peaceful Indians, who have a high claim to the protective hand of Congress, which it requires no argument to show may be most effectively extended under a territorial government.

For causes before stated, the climate is such that no white man can work in the sun. This country, now inhabited by an inoffensive, to some extent agricultural people, is unsuited to the white race, unless it possess servile labor. But if we confine our attention to the coast, where the refreshing sea breeze mitigates the climate, then throughout this same extent you find, down to San Louis Obispo, the mountains running close upon the sea; its streams short, and the valleys narrow. Here, then, are scattered, some 20 or 30 miles apart, a few pastoral ranchos, with the agriculture necessary to supply the inhabitants with Indian corn and beans, which seem to be all that the country produces under its present occupation.

To the south, the coast plain widens, the mountains are depressed, gaps are found, connecting the plains above with those which slope down to the sea, until the ridge ceases, and the broad plain of Los Angeles opens to the view. Here, where the keen blasts of the north are checked by sheltering mountains, and the sloping plains face the sun, we pass at once into a tropical climate. This is the land of the grape, of cotton; of maize, of the olive, and sugar cane. Here, so far as cultivation exists, that cultivation depends upon irrigation and upon servile labor. It is a curious fact that we find here a race of Indians who pass at once into servility, and who, from their complexions and characteristics, rather seem of Asiatic origin than to be descended from the same parent stock as the wild and free tribes who were found in the more eastern portion of the United States. The country to the southeast of these mountains has been but little explored; it is in the possession of a more settled and warlike tribe of men; and it is because they have been so warlike and so populous that so little has been heretofore known of the country. Shall we, then, abandon these men, peaceful and prone to servility, or warlike and with fixed habitations, to the laws of California and the aggressions of reckless men? Or shall we extend that protection of the Federal Government over them which a territorial organization will best enable us to give? In times past, the United States have suffered bitter reproaches for their policy towards the natives they found on this continent—reproaches not always just, indeed quite undeserved, as was conclusively demonstrated by the Senator from Michigan (Mr. Cass) many years ago, if we compare our conduct with that of other nations, who have exercised control over the aboriginal tribes of this continent.

The strong, far-reaching arm and unbiased policy of the General Government, undisturbed by questions of State sovereignty, may govern to protect these tribes. In the new and even unsettled condition of California, it is to be feared the reverse would be the case, if the country were included in her limits: that aggression would be followed by hostility, to end in their destruction. But, sir, there is another race with yet higher claim upon us in the vicinity of the coast We find that very population, who were by the treaty to have their rights of property when they passed under our protection secured to them; we find the pastoral race of Mexicans who inhabited the country when we acquired it occupying extensive tracts of lands; and we have reason to believe they are about to be driven from their possessions by the legislation of California. It is not to be neglected or forgotten that the present Governor of California, as we have learned through the press, announced as his policy a taxation of the lands which would compel these proprietors to sell their possessions. A tax, such as would not be felt in the min-

ing or even a farming district, would be destructive to a pastoral population. This is the natural fruit of legislation by those who have an opposite interest and no sympathy with the others, for whom they make laws. Is this the protection of property, which we guarantied in the treaty of Guadalupe Hidalgo? Is this the kindness which those people have a right to claim from the Government of the United States? Or is it not a gross act of injustice to the people, who, ignorant of our institutions, have confided in our guardian care, and whom it is our duty to protect?

Then, Mr. President, whether we consider this question in relation to soil and climate, or in relation to the great characteristics of the physical geography, a division of the country is equally demanded. Whether we consider the question with reference to the present interests or the future interest and well-being of those who now or who are hereafter to inhabit those countries, it is equally clear that South California should be organized into a distinct political community, under laws enacted with reference to their peculiar interests, and the characteristics of the Mexican inhabitants, to whom we owe protection, kind and special in proportion to their helplessness. For this we ought to retain the powers which a territorial government secures to us over this country, that we may shield it from the inappropriate or hostile legislation of the men of Northern California.

Mr. President, we are told that it is the will of the people to which we should bow. Do the proceedings of the convention prove that? I know not that any one has full and accurate information in relation to that subject. From such knowledge as I am able to glean, I believe the people of South California were reduced to the alternative of sending delegates to that convention to take part in its proceedings, or seeing it proceed to establish the fundamental law of their country without their co operation or advice.

And, sir, there is another instructive statement in relation to this matter—that these delegates, when they left their homes to attend this convention, uniformly contended against a State organization, and in favor of a territorial government. We find them, one after another, yielding to different views—under what influences I am unable to say; but it is to be remarked that a large proportion of the members secured advantages, or received offices from the action of the convention to which they were delegates.

But, again, Mr. President, to decide how far this is the will of the people, it is proper to inquire what part of the population took part in those elections. I compare two towns for the purpose of illustrating that fact. Los Angelos, with a population of about five thousand people, gave about seventy-five or eighty votes; while San Diego, a little village composed of about a dozen adobe ports, gave a vote of one hundred and fifty or upwards. Then, sir, the question arises, how did that happen? The answer is two-fold: Los Angelos is one of the districts still inhabited by the population acquired with the country; they did not choose to become parties to this convention; and therefore it was that their vote was so small, although no expedient was left untried, an officer having been sent as a special agent to induce them to take part in the proceeding. All was done that could be done to cause them to vote for delegates, with only such success as is shown by the election return. The explanation in the other case is different. A body of men for the survey of the boundary, and a military escort, had just arrived, and were encamped in the vicinity of the little village, when they heard of an election. True to the instinct of our countrymen, they were ready for a canvass. The boundary commission and the army each put up their candidates; and then the struggle commenced between them to send a delegate to this convention, which was to assume sovereignty over territory of the United States, and to determine the fundamental law of a country they had never seen. The contest was of doubtful issue, when a vessel came to in the offing, and more or less of the crew and passengers were immediately brought in, as I learn, to decide it by their votes in favor of the boundary commission. And then a body of dragoons, stationed some distance in the country, were sent for. They came in; they, too, assisted by their votes to elect a candidate, who was one of the military escort; and thus an officer of the army of the United States became a delegate to the convention which has claimed to measure the rights of American citizens in their own country. Was this the will of the people? Was this the sovereign will to which it is said that Congress must bow? or was it an unauthorized interference of men who had no legitimate or permanent connexion with the matter they presumed to decide?

When, sir, looking into the constituent material of that convention, we meet there, instead of Mexican inhabitants—instead of Americans who had gone there with the intent to remain citizen emigrants, seeking a new home—seven officers of the New York regiment, sent out there by this Government for military purposes, three officers of the United States army, two or three officers of the navy of the United States, a few Mexicans, who could not speak English, and some of our citizens who are said to have

gone there to aid in the organization of the government. The residue was composed of persons of whom it may be supposed a part were permanently identified with the country—how great a part I will not pretend to say. But I would ask of Senators how many they suppose of those persons they have known to emigrate to California went there with the intent to remain? It is not enough to say they will probably never carry out their intent to return, because to qualify them to found the institutions of the country they should have had at the time a fixed purpose in their mind to make that country their home. This could not be the case with those who, a few months before, had gone there merely to collect gold and return to the United States. There is another test: How many had taken their families with them?—that best guaranty of an intent to become permanent residents.

Mr. President, it comes, then, to this: whether sojourners, persons travelling, with no permanent interest or locality in the country—soldiers, sailors, or government employees, who chance to be present—are qualified to lay the foundations of a State, and decide on the institutions which shall prevail among generations yet unborn?

But, sir, there is something further to be offered to those on whom these considerations make no impression. Admitting the population to be as stated in the ordinary estimates, it was only about one fifth of the population of California which took part in this proceeding, either to elect delegates or to ratify the constitution they formed. What then? Four-fifths of the Americans in the country, and Mexicans, to whom we are bound to extend special protection, had no connexion whatever with this convention. Are we still to be told that its proceedings embody the expression of the will of the people of California. These, Mr. President, are the facts which come to light upon an analysis of this remarkable proceeding; and these facts are such as not only amply to sustain, in my opinion, the amendment of the Senator from Louisiana, (Mr. Soule,) but which would entirely justify us in treating this constitution as a nullity, and proceeding to the formation of a Territorial Government for the people who inhabit our western territory.

I am not one of those, Mr. President, who can be with any truth described as hostile to these Territories. On the contrary, their interest has uniformly received my support. I am one of those who strove most strenuously at the last session of Congress in favor of giving those people a government. I am one of those who was willing then, as I am willing now, to admit them as a State, so soon as they came here regularly with proper qualifications, and ask for admission. But I am one of those who claim a conformity with the precedents which have existed since the foundation of the Government, and which are necessary to secure considerations of far higher importance than any which concern the ascendency of a particular interest, or political party.

But, Mr. President, I find myself constantly wandering into considerations broader than it was my purpose to enter upon. I have said that this country south of 36 deg. 30 min., was separated by Nature from the body of what is now called the State of California, and that it claims a political organization separate from the other. The basin of the Lake Tulares, lying immediately south of the parallel of 36 deg. 30 min. form, I think, no exception. A bare inspection of the map, with the slightest knowledge of the mountain ridges and passes, must convince any one that this country belongs to South California. Its ports are San Diego and San Pedro. That all the country back of the Sierra Nevada up to the Salt Lake, must for commercial purposes find its outlet at San Diego and San Pedro, and not at San Francisco, is established now, I believe, beyond controversy. We find the plain extending from the Great Salt Lake, connected by a route over which there is said to be now a good wagon-road with the port of San Diego. Then, sir, nature having determined these controlling divisions, the question arises, what are to be the institutions, if left to natural causes, in the one country and the other? Will they be uniform or diversified? If the latter, why seek to force on them one system of municipal laws?

If, then, connected with these considerations, I have been able to show to the Senate, however briefly, that the population, climate, and soil, united with those routes capable of being travelled, all go to sustain this line of 36 deg. 30 min., as the natural line of division, I ask whether in adopting it we should not be consulting higher considerations than any of mere temporary political expediency? I ask whether reasons of pre-eminent and general importance do not demand that we should sustain the amendment of the Senator from Louisiana? But, Mr. President, there is still another claim for this amendment. Anterior to the formation of the State Constitution by California, Deseret formed a State or Territorial Constitution, and established her boundary. Deseret, which lies immediately east of California, has no outlet to the sea except through the southern part of California. They find their outlet to the ports that I have mentioned. They have no practical commercial connexion whatever with San Francisco. This is most

forcibly shown by a fact which has recently come to my knowledge; when Colonel Mason, the military governor of that Territory, wished to obtain troops from the settlement at the Salt Lake, an officer was detached for the purpose; but, instead of being able to go direct, he had to keep down upon the west side of the Sierra Nevada, which stood a snow-covered wall for a distance of more than three hundred miles before he found any opening through which he could pass; after which he had to travel north of the same parallel from which he started. It is best, I think, that this country of South California should stand alone—that it have a distinct organization; but if that is not to be done, then the most proper and desirable thing remaining to be chosen, is to attach it to Deseret, which has claimed a part of it, and to which it belongs by nature more properly than to North California.

But the distinguished Senator from Massachusetts (Mr. Webster) remarked yesterday, that we are reduced to an alternative—that we have to admit California as a State, or that she will be separated from the Union Mr. President, these words come also from the shores of the Pacific; but what foundation is there, can there be, for them. The people of California knock at your doors for admission into the Union. at the same time we are told that they are suffering for protection and assistance. They have now a State Government, and there is no interference to prevent their exercise of all its functions. Indeed, some portions of the army and navy of the United States are kept there for their benefit. They claim, in order to enable them to carry on their State Government, the aid of the Federal Government With what force, then, do they talk, or others for them, of their seceding from the United States and setting up a Government of their own? Why, sir, it is idle They need the protection of this Government; and I wish them to have it, not the less because they have attempted self government before they were competent to sustain themselves With this is connected another inquiry. Why such haste? Were they prompted to form a State Government, or was it by their own option? It appears to have been because they were invited to it by one who had no right to the exercise of the civil functions which he assumed, or with which he was improperly invested. They were urged to it by the officers of the army in California. The proclamation under which the convention was convened makes a strange declaration. It asserts that the laws of Mexico made the military commandant ex officio civil governor:

"The undersigned, in accordance with instructions from the Secretary of War, has assumed the administration of civil affairs in California, not as *military* governor, but as the executive of the existing civil government. In the absence of a properly-appointed civil governor, the commanding officer of the depnrtment is, by the laws of California, *ex officio* civil governor of the country; and the instructions from Washington were based on the provisions of these laws. This subject has been misrepresented, or at least misconceived, and currency given to the impression that the government of the country is still *military*. Such is not the fact. The military government ended with the war; and what remains is the *civil* government recognised in the existing laws of California.

Now, that rests on the doctrine which has been put forward here, that the Mexican laws are in force in the Territories. But, so far as I can learn, there was no such law as that proclamation appeals to. In this same volume is contained a digest of these laws; and I will read one section which belongs to this case, and I believe decides it:

"In temporary default of the Governor, another shall be named *ad interim*, in the same manner as the proper one. If the default should be of short duration, the senior (mas antiguo) lay member of the departmental legislature shall take charge of the Government, as he shall in like manner do during the interval which may take place between the default of the Governor proper, and the appointment of his successor *ad interim*."

Then, sir, it was the oldest member of their legislature who became Governor *ex officio* when the office was vacant. It was the oldest member of the departmental legislature who should have succeeded. If, indeed, the civil government which pre-existed the acquisition of that Territory by the United States continued, why should not the Mexican Governor have resumed his duties with the restoration of peace. With their laws in force and their officers restored to their functions? American emigrants would have realized the full force of this doctrine.

But here, sir, is proof of the fallacy of the whole foundation of this argument for the supremacy of Mexican laws. No one relied upon it—no one has yet been willing to follow this argument to the conclusion to which it leads. Else why was not the Legislature of the Department of California called together? The thing has received life from political incubation here.

But the Senator from Massachusetts assumed another position which I wish to notice. He stated, in exact opposition to all those geographical facts which I have presented, that if we had the power to arrange this boundary we could not make a better one than that proposed. Now, sir, it would be very surprising indeed if a convention, without any knowledge of part of the country for which they were to establish a government, should chance to fall upon the best boundary that could be established. It would be strange if they could do it at the first guess; and it would be stranger still if, after varying with every extraneous pressure thus received, they should at last fortuitously settle upon the boundary best suited to the formation of the State. First, in ignorance of the fact that the people of Descret had formed a government, it was proposed to include that country. Then a boundary was adopted, including part of the country beyond the mountains, and it appears that the belief existed that the Sierra Nevada run down to the Colorado river. After all this, we are led to the conclusion, by what is found in the debates of the convention, that the boundary finally adopted was selected because it covered the country in which Gen. Riley had ordered delegates to be elected. They considered themselves bound, therefore, to adopt that boundary, and they did not even claim to inquire what limits Nature had prescribed. Now, sir, are Senators of the United States to lock up their intellects, to shut out all sources of information, and adopt as the boundaries of the State those which General Riley happened to select as that from which he would call delegates to the Convention?

The Senator also says that Southern labor could not be profitably used in this country. Why, sir? Do white men work in the burning suns of South California? Are not the products there of that tropical character which, in our more temperate climate, demands slave labor? Is there too little soil? Those valleys—now, it is true, to a great extent, desert—were once prolific of products which form the staples of the Southern States. Even now, are to be found aqueducts that conveyed the waters from the mountains, and irrigated and fertilized the plains. Wherever water is found in sufficient abundance, our enterprising people will develop the capabilities of the country, and it will again be covered with the profitable productions to which its soil and climate are adapted. It may become the rival for the growth of long staple cotton which is now produced on the sea islands of the United States So far as we are able to learn, it is, of the whole country of the United States, the best adapted to the growth of the olive and the grape. Why, then, may not this country become great in its agricultural resources, if permitted to introduce that species of labor which can bear the scorching of a tropical sun? Now, they have it in the copper colored Indians, who readily pass into a servile condition, and serve for the irregular demand which is made upon them for the present limited cultivation. But after those changes, which we must soon anticipate, whence are they to draw the labor required for that climate, save from the slaves of the United States? Without these that country must long remain uncultivated. I will not now repeat what I have heretofore said of our right to transfer this species of labor to that country, and the consequences which would result from it. But, leaving all that where it has been placed, and remains unshaken by argument, I propose to inquire what is the position in relation to this set of measures which I and those who think with me occupy? We of the South have claimed equality of right in the Territories. Does this bill give it? Does it secure to us anything? Do our opponents, in this sectional issue, concede any point for which they have ever contended? Their assertion is renewed that the local law of Mexico continues in force. With that is coupled the assertion that slavery can only exist by force of local law, and with that is connected, following as effect from cause, the prohibition of the legislature to pass any law for its introduction. Those who hold those opinions, and make that provision, certainly do not intend to concede anything. In what attitude do we then stand in regard to the Territories? We are not prohibited from taking slaves, because the prohibition is believed already to exist. Now, then, if the reverse should prove to be the case, would not the prohibition then be resorted to? But if we are excluded by the Mexican local laws of the land, then the repeal of those laws is refused. This is to organize governments, that we may furnish the officers to execute the laws which would exist without our action. If the laws now there are to remain, the condition after will be very much the same as before our organization. Then where is the merit, the healing power of this great Compromise bill? What is there in the whole scheme that a Southern man should desire so much as to sacrifice for it all the restrictions of time honored precedents, should violate all established usages, and his own convictions of propriety? Is it that he may fasten upon his constituents a law which gives them nothing, but takes from them a large portion of Texas, in which they have now an equal right, secured by the jurisdiction of a slaveholding State?

But, sir, on a former occasion I was answered that the laws of Texas would remain in force. Now, let us see in what position we will stand there. Where is the boundary of Texas? We have called upon Congress again and again to decide that question, and it has again and again shrunk from the duty. When a new line is drawn, who shall say whether the land beyond it was in or out of Texas before that line was drawn? Being now undetermined—the dispute being as to whether that country is New Mexico or Texas—I ask what assurances we have that we shall not be answered finally, that the local laws of New Mexico exist in these Territories, and not the laws of Texas? Then, sir, we are to surrender to the control of an anti-slavery Congress this vast domain, without having obtained a recognition of boundary, or an admission that the Texas laws are over it. Thus we are to turn it over to the tender mercies of the anti-slavery majority of Congress, whose mercy to the South is as the mercy of the winds and waves.

It is not necessary for me to multiply arguments like these to sustain my decision as to my own action, or justify the vote I intend to give to my constituents; nor can I believe it necessary for me to multiply such arguments to justify myself in the mind of every patriot who loves his whole country more than his own section. Sir, I know that the weakness of human nature renders man prone to view his own case through a different medium from that through which he views it when it is another's; but, if I can judge what would be my feelings if the case were reversed, I may say I would stand by the minority, whose rights were about to be stripped from them—would stand by the Constitution and justice, against any popular feeling that might press upon me from any quarter, however respected.

Sir, so far as I am concerned—and, I think, so far as the South generally is concerned—every assertion that we have opposed the admission of California, because of the prohibition of slavery, is unfounded. I am one of those who have uniformly avowed the doctrine that the people, in forming a State Constitution, have a right to determine for themselves whether they will have slavery or not. I am willing to follow that doctrine to any conclusion to which it may lead. But, sir, the doctrine does not carry with it the right of every band of wandering men in any section of country, who may choose to assemble together and adopt a so-called constitution, to bind us to recognize its validity and their sovereignty. Such a right is not implied in the doctrine I avow. We object, sir, mainly to this provision, because it does not come from the permanent population of the country, and because it was inserted, as is too plainly apparent, to yield to the anti-slavery dictation of the American Congress. What would it advantage the South, if we could insert in this constitution a provisionary clause to admit slavery, if it be true that the people, the soil, the climate, are all opposed to it? What could it, under such circumstances, advantage us, or what could it injure you? If, under such a condition, any man should undertake to go to such a country with slaves, it would follow, of course, that he would lose his property. And to those who so ardently desire the emancipation of the slave, what better guaranty could they ask than that they should be sent to a country where the population, the soil, the climate, the productions, are all opposed to slavery? Sir, there is a want of sincerity somewhere. Those who assert so unqualifiedly that slavery cannot exist there must, I say, be wanting in sincerity when they so furiously oppose the idea of leaving the decision of the question to time and the future population. Men do not, from week to week and from month to month, battle against a mere abstraction. No doubt some Southern men believe that slaves would not be taken to that country, and yet contend for it as a constitutional right. That is a different question. A constitutional right is a substantial thing, because of its sacred character, and the possible consequences of permitting a breach at even the least important point. But the man who opposes it as a matter of policy, and at the same time asserts that it could not exist, that no law could introduce it and keep it there, must have a strange mode of reasoning, or a want of that sincerity which we have a right to expect in discussion here. But suppose that the Constitution of California had contained a clause permitting slavery: how then would the case stand? Would those who, at the last session of Congress, opposed the organization of a Territorial Government unless the slavery prohibition were contained in the act, have voted for the admission of a State into the Union with such a constitution? Would those who refused that the Constitution of the United States should be extended over the country, lest it should give some advantage to slaveholders in the Territories—would they, I say, with such a provision in the constitution as I have supposed, have voted for the admission of California? No, sir; their past conduct too plainly shows the contrary. Yet these are the same who arraign Southern men for a position assumed upon different ground, and attribute to them the purpose to exclude it because slavery is prohibited. Now, as heretofore, I claim that our attitude is defensive; I maintain that we are merely contending for our constitutional

rights, and contend for even less than our constitutional rights, when we ask that the contract under which we have existed for thirty years shall be renewed. That position, however, is denounced as ultra. Ultra in what? Is it beyond the faith heretofore pledged to us—beyond the compact made for the advantage of your section to our disadvantage? Is it beyond the Constitution which secures equal privileges to every citizen? What is it beyond? Will any man tell me it is ultra to assert our constitutional rights?—ultra to ask that a compact heretofore made and renewed shall be again extended?—ultra to claim that we are equals in the Union, and should enjoy equal rights? If that is ultra, God forbid that I should ever be any thing else. And, in keeping with this idle and unsubstantial charge, we are told that the extremes here meet.

It is charged here and elsewhere that the ultras of the North and the South have met, and that this great and important measure of settlement and compromise is to be destroyed by that conjunction. Well, sir, upon what grounds have the extremes met? They meet upon the ground that it is proper to say what they mean—to tell the country plainly, honestly what their purpose is; and upon that ground men of any opinion may meet me at all times. And in such a conjunction, being an attempt to say what we mean, to say nothing unintelligibly, and to defeat all illusory schemes, I am willing to be found with men of any opinion, however repulsive. Beyond this there is no conjunction. Any insinuation that there is any co-intelligence beyond this, that there is any caucusing, to use a phrase well understood here, I pronounce, so far as I am concerned, to be false. I stand upon my own ground—that which I have uniformly announced to the Senate. Let those who choose to vote with me do so for whatever reasons may be satisfactory to them. God forbid I should ever have such feelings of repugnance to any Senator that I should change my vote for fear of being found thus connected with him. But, sir, I am not cheered or encouraged by the aid thus given to our opposition to this bill. On the other hand it constitutes, to me, one of the most alarming indications of the times. What more can be wanted by our extreme opponents than this bill gives them? Is it not enough for them to seize the whole matter in dispute, but must they insist upon doing it in the most offensive form? Is this the worse alternative we are called on to avoid by adopting this bill? I reject the inducement, and find in the argument an answer to the promises of peace which are offered us by those whose faith embraces things not seen.

We are told that this bill is to bring pacification and settlement; but who can show how this is to be effected? Settled, it is true, by the admission of California into the Union—by the taking from Texas her just domain. But what power has any one to say that agitation will not continue in the country, in relation to the Territories? Unless the South is effectually excluded by this bill, that this same discord may not continue; that this same strife may not go beyond this measure? No one can say thus, who does not shut his eyes to passing events around him; for he must see that this very measure is productive of new elements of discord, without healing one of those five wounds that we have had held up before us. I desire pacification; I desire settlement; I wish to see the legislation of the country go on again in its peaceful channels. I wish again to stand with my brother Senators without a conflicting opinion of such a character as to disturb kind relations. I wish again to look upon this broad land without seeing the people of one portion of the Union discussing the affairs of the other in such manner as to destroy the fraternity which is the strongest support, the only reliable bond of our Union. Do not this and many other things which daily pass around us forebode a growing distrust of one section for the other? Are we not sufficiently warned that we stand upon the verge of civil war? Is not the smallest item in the account of sectional differences which I have stated the growing alienation, not to say sectional hostility, between the citizens of this Union, enough to fill every American's heart with the desire to come to the rescue, in order that he may aid, by head, hand, and heart, in the adoption of some plan for the final settlement of this question; so fruitful of evil and so threatening in its present aspect? Could such a plan be brought forward, I would be one of the first to labor for it, and one of the last to grow weary of toil in such a cause.

MR. SOULE'S REJOINDER

TO

MESSRS. DOUGLAS AND WEBSTER,

ON HIS SUBSTITUTE TO THE THREE FIRST SECTIONS IN THE COMPROMISE BILL RESPECTING CALIFORNIA.

IN THE SENATE OF THE UNITED STATES, JUNE 28, 1850.

Mr. DOUGLAS having on the 26th, and Mr. WEBSTER on the 27th, replied to Mr. SOULE's speech of the 24th and 25th, on the 28th Mr. SOULE rejoined as follows:

Mr. PRESIDENT: I rose on yesterday to ask the floor, after the distinguished Senator from Massachusetts (Mr. WEBSTER) had resumed his seat, with a view to answer at once, and on the spur of the moment, the arguments he had urged in reply to the speech which I had delivered two days before. But the extreme adroitness of my friend from Mississippi (Mr. FOOTE) to catch the eye and the ear of the Chair, enabled him to take the chance for himself, while it constrained me to withhold until now what brief remarks I had intended for the occasion.

The Senator from Massachusetts, upon entering into the debate, stated so fully and distinctly the main propositions which I had asserted, that I felt assured he would review them one by one, and show in what each and all had failed to convince him. He must, surely, have deemed some of them unworthy of any other notice than a bare mention, as he did abstain so scrupulously from alluding to them in the course of his terse and pointed comments. Sir, I shall attempt to bring them afresh to his consideration, that I may know whether or not he has determined to leave them unanswered.

The first proposition which I will lay down, in order to follow the Senator in his argument, will be to the effect, that, *whatever belongs to the sovereign, by virtue of his sovereignty, passes with it to the new sovereign, whenever the sovereignty is changed.*

Upon that principle did I maintain that, by the admission of California into the Union as a sovereign State, the public domain, now within her limits, would be transferred to her, *unless* secured by an ordinance of relinquishment prior to or contemporaneous with her admission; and I brought forth the authority of Vattel to show that "the right of domain was inseparable from the sovereignty."

To this the honorable Senator replies, that the sovereignty of the States, under our system of confederacy, is a limited sovereignty, and that the useful domain is distinct from and utterly unconnected with the eminent domain, which is the domain that belongs to and follows the sovereignty; and the very authority from which I quoted is invoked in support of that position.

Sir, the honorable Senator seemed to find it amiss that I should have extracted from Vattel a quotation which had been brought forward on this floor, some twenty years ago by an eminent statesman from Indiana, and that I should have used it in the very words of that statesman, as if the same authority, from the same book, was to undergo a process of variation as it passed through different hands; and, with an emphasis somewhat sarcastic, he intimated that I, as well as the gentleman to whom I have just alluded, *had stopped short* in my quotation, and *left out* an important part of it, which materially qualified the principle asserted.

Mr. WEBSTER, (interposing.) I beg the gentleman's pardon. If he had heard my remarks distinctly, he would have observed that I attributed the stopping in the middle of the passage to the gentleman whom I had read from, and not the gentleman himself.

Mr. SOULE. Of course; but, as I had used the same quotation, and stopped at the same place, it was but justice that I should take at least one-half of the rebuke which it met with at the hands of the distinguished Senator.

In connexion with this, I have to say: First, that it would be passing strange if, under such circumstances, and quoting the very words which had been quoted by the Senator from Indiana, I had introduced a language varying from or in any manner unlike that which he himself had used; and, secondly, that it was not *unintentionally* that I left out the end of the paragraph from which I was reading. The *broad principle* was all that I aimed at drawing the attention of the Senate to. I shall presently show that the *sequel*, far from weakening my argument, would but have imparted to it additional strength and appropriateness. What was it I extracted from Vattel? Why, this: "That sovereignty is necessarily and inseparably connected with the right of soil to the territory over which it is exercised." What is it that the honorable Senator would have me add? "That a sovereign, a nation, *may* possess fiefs, &c.; within the limits of a country not subject to their jurisdiction"—the very words showing that, in the intendment of the writer, the *useful domain* generally and of right belongs to the sovereign, although it *may* be separated from the sovereignty! Was I not admitting the exception when contending that it should be saved by a solemn reservation from passing to the new sovereign? My argument was this: The United States have no other right to the public domain within the Territories ceded to them by Mexico but that which Mexico herself possessed over them. It was as sovereign, and by virtue of her sovereignty, that Mexico held that right; and the United States, under her, can claim no other. They, then, possess the domain in California by virtue of their sovereignty; and, if so, they necessarily divest themselves of it from the moment that, through their sufferance and sanction, it passes under the jurisdiction of a new sovereign, provided always *it is not reserved* by an act prior to or contemporaneous with the investiture of the new sovereign. Now, Mr. President, it is no anwer to this, that, according to Vattel, even a sovereign *may* possess lands and other property within a sovereignty *not his own*. So far my argument admits it. But the question occurs, which has not been answered yet: What title have you to the useful domain over which you claim to retain your control, if it be not the treaty? Look at it, and point out to me, if you can, where it transfers to you *eo nomine*, the *useful* domain? You cannot claim it under its provisions, except through the sovereignty which it transfers to you, and through the enlargement of boundaries over which it allows you to extend your jurisdiction; and, if so, will you not divest yourselves of that domain when, in the same manner, you will transfer your own sovereignty to the new State? Precisely so; by virtue of the same principle, and exactly through the same implication, unless you reserve it in the manner provided for in the substitute before the Senate.

The distinguished Senator, whilst so punctilious on the point of *full quotation*, has fallen himself into the blunder for which he so wittily chid the statesman through whose track he was pursuing me, and has omitted a most important remark, which Vattel adds to the words which he himself quoted from his book. It is this :

That in such cases the prince or the nation, holding property in the territory of another prince or another nation, holds it as by *title of private ownership*.

I ask, then, if such be the exception, how can it be made to apply to the United States, holding lands, as they do, within the borders of an individual State? They hold them exempt from taxation—an exemption which, if carried out to its extreme consequences, would take away from the State the main resource through which she can sustain herself and support her government.

If the United States can possess lands to any extent within the limits of a State, they may—and, with the vast means they possess, I would not be surprised if they were to realize some day or other such a monstrous contingency—*possess them all:* they may, as I said before, cover them with a federal tenantry, and, by perpetuating such a state of things, actually destroy all independence in the State, and reduce her to a condition of perfect vassalage.

What is to become of her sovereignty, if the Federal Government can lease *her* lands, send their agents to collect the rents, and forever remain exonerated from all taxation, &c.?

Is such a condition of a State in harmony with the republican spirit of our institutions? Is it constitutional? Is it necessary for any purpose of government or to carry out any of its powers? It is not. And if such a system takes root and is submitted to, the independence of the States is gone, and that clause in the Constitution annulled, which restricts the right of the United States to possess lands within the limits of a State to "forts, magazines, arsenals, dockyards, and other needful buildings." Nor is it, I maintain, necessary for any purpose of the government. "The Territories are ours," says the Senator from Massachusetts; "they are the property of the United States, and remain such until disposed of by them." That is precisely what I contend for; the Territories are *yours*, and the public domain within them is *your property*, but so long only as they remain under your sovereign jurisdiction: and as you may so keep them until you have disposed of every foot of soil which you have within them, I can conceive of no necessity for suffering you to hold an absolute control over them, beyond the time you shall think fit to admit them as sovereign States into the Union. Unless, therefore, you dispose of the domain before surrendering your sovereignty, or unless you secure its reservation for specific purposes, by such a compact as will, not confer upon you rights which the Constitution withholds, but enable you, through the sufferance secured by the relinquishment of all claim on the part of the States, to dispose of the domain, it is gone;—irretrievably gone. It escheats to the new State, and becomes absolutely *hers*.

But, Mr. President, I am met with another authority of a still greater weight than that of Vattel, as it purports to be an opinion of the Supreme Court of the United States upon the abstract matters at issue in this controversy, (Pollard's Lessee *vs.* Hagan et al. 3 Howard.) Although I doubt seriously whether any adjudication, come from what tribunal it may, can add much cogency to what the distinguished Senator has said, or carry with it more influence than his name and opinions bring to bear on all subjects of national interest, I will admit freely that such an authority might, in a court of justice, be deemed of more import and consequence. Yet we are discussing here a political question, and our courts have again and again declared that, with respect to such questions, they would always be guided by the action of the Government, under the authority of Congress. Besides, the opinion referred to, stands isolated, and can by no means be considered as settling the jurisprudence

of the country upon the matters it adjudicates. It was delivered in a case between private parties, on an occasion in which the respective and conflicting pretensions of two contending sovereignties could not be fully brought into discussion. As far as that question went, it was a matter *coram non judice*. The point in dispute was, whether or not the ownership of an alluvial increment of soil, formed in front of a private property in the bay of Mobile, belonged to the riparian owner; and his right to the alluvion was pressed upon the ground that the United States, under whom the riparian owner held, having originally acquired that property from Spain, had acquired it with all the rights inhering to the same by the laws of that country, and as such it had been transferred to him by them. Well, the court decided that the ownership of the alluvial soil was *in the State of Alabama*, who could clearly set up no right or claim to it, except under her sovereignty; and so far, therefore, the opinion goes in support of my argument.

There are in it, it is true, several *obiter dicta*, tending to establish that the United States *may* possess lands within the borders of a State, without interfering at all with her sovereignty; but of which lands does the opinion speak? Of lands possessed by them through specific deeds of cession from the States, and not of lands held under the right and by virtue of the sovereignty. Now, I insist that the public domain which the United States hold in California is of the latter kind; and I have fully illustrated this position when alluding to the treaty of cession. As such, it is inherent to and passes with the sovereignty, unless reserved by a specific contract before the territory, within which it lies, is transferred to the new sovereign. Moreover, it must not be overlooked that precisely such an ordinance as my substitute provides for had already been executed by Alabama, and in the most solemn form *before* she was admitted as a State into the Union.

Nor should that decree, I apprehend, isolated as it is and alone, and a *res inter alios acta*, be considered as paramount to the settled political doctrine held and adhered to invariably by the thirty Congresses that have succeeded each other during these sixty years past. Whatever be my respect and deference to the opinions of the Supreme Court, I cannot shut my eyes to the fact that it has happened more than once that their judgment, upon great constitutional questions, was repudiated by the universal sentiment of the whole country; and I need not allude to that which sanctioned the constitutionality of the *alien and sedition laws*, and which a gust of an incensed public opinion scattered to the winds of Heaven, and swept away from the catalogue of precedents, not to be referred to any more hereafter.

But, should I be compelled to surrender all this, the main difficulty will by no means be removed. The opinion of the Supreme Court, in the case cited, only recognises in the United States the power to hold lands in the *States* for specific and temporary purposes; and from the principle laid down in Vattel, they cannot hold them, except "*in the manner of private individuals.*" What, then, of the mines?—If my argument with respect to them is conclusive, (and no one yet was so rash as to assail it,) they are gone and belong of right to the first occupant; for the domain throughout all New Spain (Mexico) was, from the days of Philip II, shorn of all right over them, except in so far as the sovereign retained that of levying a duty on the proceeds of them. Now, *that right* is a thing incorporeal, essentially belonging to and to be exercised only by the sovereign. It is inherent to sovereignty; it passes with it, is inseparable from it, and constitutes its most important muniment and privilege. Will you say, then, that the United States do not part with it when they transfer their sovereignty to a new State? You cannot. If, therefore, you do not save the domain by an effective and absolute relinquishment on the part of the new State of all claim or title to it, it is lost to *you* and forever secured to *her*. The consequence is irresistibly unavoidable.

I had said that the uniform opinion and policy of Congress, as expressed by its action whenever the case has occurred of a new State asking to be admitted into the Union, bear me out in the view which I have taken of this subject. But the honorable Senator from Illinois (Mr. DOUGLASS) has boldly denied the fact, and contends, with an earnestness quite characteristic of his tone and manner, even when he is advocating a most ungracious and stubborn case, "that the political history of the country is invariably against me." Is that what the Senator contends for? I wish to state his position distinctly.

Mr. DOUGLAS. That is the proposition that the precedents growing out of the admission of new States are all one way, beginning from Tennessee up; that the current of authority is decidedly against him.

Mr. SOULE. I am glad that I have not misstated the ground taken by the honorable Senator. It is as I laid it down; and the Senator from Massachusetts, (Mr. WEBSTER,) much to my surprise, has given it the weight of his unconditional endorsement. Sir, are the honorable Senators right? Am I wrong? Let history speak forth through the statute-book. But, lest I should again be misunderstood—for I had not the good fortune of being fairly met on this point by either of the Senators—I will again lay down my proposition with respect to that matter, and I call specially their attention to its terms. It is this: "That Congress, by requiring in every instance of a new State (with unappropriated public lands) asking to be admitted into the Union, that she should execute an act of relinquishment of all title or claim to the public lands, or bind herself to conform her constitution to the articles of compact of the ordinance of 1787, has acknowledged and proclaimed that *without it* the domain would pass, with the sovereignty, to the State. Now for the proof:

Since the formation of this Government, there have been seventeen States admitted into the Union. The State of Vermont came first, (March 4th, 1791.) She was required to pass no ordinance, there being no *unappropriated* public lands within her limits. Next came Kentucky, (June 1st, 1792.) Virginia, upon giving her assent to its separate organization as a State, did not pretend to retain the public domain, but let it go with the sovereignty, and made no reserve. The domain passed to the new State; and as she was admitted into the Union *without* any act of relinquishment of the public lands within her limits, she made them *hers*, and the United States have never, to my knowledge, attempted to interfere with them.

Then came Tennessee, about whom the Senator from Illinois said so much, under the impression that, having been admitted unconditionally, she, at least, constituted an exception to the rule which (he could not deny) had been applied to other States. I will here remind the honorable Senator, with respect to this State, that her case was a peculiar one. Her territory had been ceded to the United States by North Carolina; and, in the act of cession, the latter had solemnly stipulated that "All lands intended to be ceded by virtue of this act to the United States of America, and not appropriated, shall be considered as a *common fund* for the use and benefit of the United States, North Carolina included, according to their respective shares in the public expenditure, and shall be faithfully disposed of *for that purpose, and for no other use or purpose whatsoever.*"—(Statutes at Large, vol. 1, p. 108.) So that not only were the public lands within that State protected from escheating to Tennessee, but the United States were precluded from all authority through which even their sufferance might have enabled her to grasp them.

Ohio came next, November 29th, 1802.) The public domain within her boundaries had been sufficiently secured by the ordinance of 1787, which was binding on all States to be carved out of the Northwestern Territory; and she was only required to provide in her ordinance that the public lands should be secured against taxation by the State.

Louisiana (February 20th, 1811) was permitted to form a State Constitution upon the express condition that she should provide, by an ordinance passed in convention, "that the people inhabiting the said Territory do agree and declare THAT THEY FOREVER DISCLAIM ALL RIGHT OR TITLE TO THE WASTE AND UNAPPROPRIATED LANDS LYING WITHIN SAID TERRITORY, and that the SAME SHALL remain at the sole and entire disposition of the United States."—(Statutes, v 2, p. 642.)

Indiana was authorized to organize herself into a State Government, upon the condition that her constitution "*should not be repugnant to the ordinance of* 1787, which provided exactly the same thing which Louisiana was required to provide in her ordinance with respect to the public domain.—(Statutes, vol. 3, p. 290.)

Missouri, also, was required, before being admitted into the Union, to bind "her legislature not to interfere with the primary disposal of the soil by the United States."—Statutes, vol. 3, p. 545.)

Illinois came under the stipulations of the ordinance of 1787.—(Statutes, vol. 3, p. 430.)

Alabama, Mississippi, Arkansas, Michigan, Iowa, and Wisconsin were all required to submit to the stern and inflexible rule; and the principle, that the *right to the soil* passed to the States with the sovereignty, was so prevalent, that on the occasion of certain advantages tendered to Florida, the act granting them—being "an act supplemental to the act admitting Florida, &c, into the Union"—recites that the said advantages are granted "in consideration of the CONCESSIONS *made by the State of Florida* in regard to the public lands," &c.

And, thus I have made good my proposition, that "whenever a new State, having unappropriated public lands within her limits, has presented herself for admission into the Union, with the exception of those formed out of the Northwestern Territories, which were invariably required to make their constitution in accordance with the articles of compact of the ordinance of 1787, she has been admitted upon the express condition that "she would relinquish *all claim and title* to the public lands within her limits, and not interfere with the primary disposal of them by the United States." Why these requirements, if the right to the soil was not to pass to the new State with the sovereignty? I repeat it for the last time, the question may have been turned; it has not been met—it remains unanswered.

I come now to that part of the argument of the Senator from Massachusetts which respects the boundaries. He insists that they are not extravagant; that they hardly embrace 5,000 square miles of agricultural lands.

Mr. WEBSTER. If the Senator will allow me, I was speaking, when I made that remark, of that portion of California that would be embraced south of the proposed line.

Mr. SOULE. I had understood the Senator as asserting that the boundaries, as restricted by my substitute, would not leave to California sufficient agricultural lands to sustain her population.

Mr. WEBSTER. What I said was exactly this: "The gentleman had argued that California, with her present boundaries, contained 153,000 square miles, and that 53,000 square miles was the average for a new State, and that California, therefore, had three times the average. I said in regard to that two things. The first was, that that part of the country which lies east of the Sierra Nevada, from the foot of the eastern side of that mountain range to the line, making some thirty or forty thousand square miles, was but a mere sandy desert; and then I said that, taking from the mountains those portions which were useful for agriculture, the result would be, that California would have much less than the other States to which I referred.

Mr. SOULE. I had entirely misconceived the position taken by the honorable Senator. I beg his pardon, and will proceed to consider how far, even where he stands, he is supported by the *geography* of the country. The double valley, watered by the San Joaquin and the Sacra-

mento rivers, alone embraces an area of the choicest agricultural lands, extending upwards of 500 miles in length, and from fifty to sixty miles in breadth. This, of itself, gives fully 25,000 square miles of arable soil. The intervening plains, between the coast mountains, add greatly to the country lands susceptible of cultivation. There are, besides, vast and rich pastures, immense forests, within the embrace of the Sierra; and thus is concentrated in the basin which it girdles an extent of territory more than amply sufficient to maintain and support a population twice as large as that of the State of New York. But the main advantages of California are those which she derives from her position and from her mineral wealth. Through the first, she has the command of all the commerce of China, of Hindostan, of Polynesia, of Japan; through the second, she holds the scale where is to be poi-ed the momentous problem of the relation in which shall stand hereafter all the articles of trade, all descriptions of exchangeable property, with the signs of value that have heretofore rated their respective prices, and of which she is as sure as fate to have hereafter the almost exclusive monopoly. Why go beyond the Sierra for her limits? We are told that the country east and south of that boundary is but a waste and a barren desert. Why take it, when you might, by leaving it out, satisfy the South and quiet the whole country?

Such is not the fact. The country south of 36 deg. 30 min. has all the conditions of climate, of soil, of productiveness that can render slave labor valuable; it has its mines, its tobacco districts, its cotton and sugar lands! What? talk you of 5,000 square miles of agricultural region? The valley of San Juan alone, the most fertile and luxuriant spot in all this continent, embraces more than 9,000 square miles, and the Colorado runs its fertilizing waters over a country equal in dimensions and in productiveness to the most exuberant counties in Louisiana!

But we are advised to be in haste; we are urged to let the Californians come in, no matter how, lest they should set out for themselves, and forever separate from the Union. Is that danger real! What! Now, when they have hardly reached a population of 150,000; when nothing attaches them to the country except the *auri sacra fames;* when they still are bound to us by all the recollections of the past, by all the hopes of the future; when they cannot leave us without rending asunder all those associations that endear life and make it happy—they dream of secession, of independence! What will it be when they have grown to millions?—when habit, interest, new affections shall have reconciled them to a permanent settlement there?

And, here, let me urge upon you again the fearful dilemma with which I closed one of my arguments the other day. Look ahead! look ahead!! A monster State in the Union—or a gigantic Empire out of it! The destinies of the republic at the mercy of the stupendous weight which, through the power of numbers, the new State will cast in your councils—or your commerce, your influence in the Pacific, in the seas of China, and in the Indian Archipelago, crushed under the heel of a powerful and hardy rival! Are you prepared for this?

Then, will not the South see clear into all this? How long do you expect to delude her by the deceitful offerings of your bill? Do not underrate her discernment. She will not be caught in the snare. She will detect the wile. She will find out by what artifice of legislation you inflict upon her, through the agency of California, the very wrong, the menace of which brought this confederacy to the brink of dissolution; and in what manner that Wilmot *Proviso* which you affect to denounce in your reports, in your speeches, in your letters, is brought in—and by this bill, to a solemn and irrepealable sanction, through the admission of California, with a Constitution which, in reality and in fact; extends IT over upwards of 100,000 square miles beyond its natural jurisdiction. I am done.

SPEECH

OF

HON. H. S. FOOTE, OF MISSISSIPPI,

ON THE

MEASURES OF COMPROMISE.

DELIVERED IN THE SENATE OF THE UNITED STATES, JUNE 27, 1850.

The Senate having under consideration the bill for the admission of California into the Union, the establishment of Territorial Governments for Utah and New Mexico, and making proposals to Texas for the settlement of her northern and western boundaries, and the pending question being upon the amendment offered some days ago by Mr. SOULE—

Mr. FOOTE said: As my position in regard to this question is very peculiar, I shall endeavor to occupy the attention of the Senate for a short time, for the purpose of explaining certain historical facts connected with the Missouri Compromise, so far as it has attracted the attention of this body within the last three years.

It seems to be generally understood that the amendment now under consideration is virtually what is known as the Missouri Compromise. As I design to vote for this amendment, although I feel thoroughly persuaded that it is impossible it can obtain the sanction of this body or that of the other house of the National Legislature, I feel bound to state my reasons for doing so, and to vindicate my consistency as a public man in regard to this branch of the subject.

Whilst thus vindicating my own consistency, if I should incidentally show that certain other gentlemen, now the ardent advocates of the Missouri Compromise and the violent opposers of this bill, are not altogether as consistent as they may wish to be regarded, I hope to be excused, as it is really not my intention either to perpetrate injustice or to practise discourtesy.

Mr. President, during the summer of 1847, a distinguished Pennsylvania statesman (Mr. Buchanan) published a letter, which was read by us all at the time, and by me highly approved of, declaring it to be his opinion that this vexed question should be settled upon the basis of the Missouri Compromise. Although not holding at the time a seat in this body—(being in private life, and occupied with duties of a far different

TOWERS, printer.

character from those in the performance of which I am now engaged)—entertaining a profound respect for this distinguished personage—a sentiment cherished for him by a large portion of his fellow-citizens—I at once declared the high gratification which I felt at the publication of the letter, and avowed my desire to see the views contained in it approved by the whole nation. When I took my seat here in the month of December, 1847, I was prepared to offer the Missouri Compromise as an amendment to the Oregon bill, which was expected to come before us for consideration at an early period of the session, as it actually did.

But, sir, what was the condition of things which I found here then? I do not design to use the language of reproach; I shall not utter one word of unkindness; I shall call no man's motives in question; but, sir, I feel bound to state, directly and explicitly, all the facts relating to this somewhat delicate point. The condition of things existing when I took my seat here at the period mentioned was precisely that which I am about to describe. Sir, I urged upon distinguished Southern men, with whom I was then in close alliance, and whose confidence and friendship I was proud to enjoy, including the distinguished Senator from South Carolina, now no longer amongst us, repeatedly, the propriety of bringing forward the Missouri Compromise, at as early a period as practicable, for the settlement of the territorial question then being fiercely agitated, and which seemed likely to be productive of still greater excitement, in the event of our acquiring additional territory from the Republic of Mexico. I insisted with these gentlemen, more than once, that inasmuch as the Missouri compromise had the advantage, in point of *precedence*, over any new plan of adjustment which could be devised, it was important to make an early trial of it in Congress, with a view to restoring quiet to the country. But what response did I receive from more than one distinguished Southern man? Why, the Missouri Compromise was denounced, carped at, and openly ridiculed. When I offered myself to introduce it as an amendment to the Oregon bill, I was told by Mr. Calhoun and others that no Southernman could do so without involving himself and the whole South in disgrace; that such a proposition, if brought forward at all, must originate with Northern men. Well, sir, I resolved not to desist from my efforts; and feeling not altogether competent, as a junior member of this body, to cope with the heavy responsibility of introducing the Missouri compromise, in defiance of the opposition threatened by Southern gentlemen, I resolved to cast about and ascertain whether I might not succeed in persuading some Northern democratic friend to introduce it. I had no difficulty in finding a suitable person in all respects for the performance of this task, and one, too, who needed no cogent persuasion from myself, or from any other person, to instigate him to the execution of what he had already resolved to do. I am about to narrate several incidents of an interesting character, never heretofore divulged; and what I shall state can be attested, if necessary, at once by the highest possible evidence—by evidence which is now present.

I chanced to be on a certain morning at the presidential mansion, then occupied by the lamented James K. Polk. I found, upon my arrival there, the honorable Senator from Indiana, (Mr. Bright,) with whom

I was then, as now, upon intimate terms, and with whom I was in the habit of counselling freely then, as now, in regard to matters affecting the welfare and safety of the republic. A conversation occurred between Mr. Polk, the Senator from Indiana, and myself, upon the Oregon bill, which was then pending, the result of which was an agreement on the part of my friend from Indiana to become the introducer of the Missouri Compromise as an amendment. The President immediately turned to a volume upon his table containing the Compromise; it was at once copied; and the Senator from Indiana and myself repaired instantly to this hall, when, in a short time after reaching the Senate, he announced his determination to bring in the amendment which he had prepared at the earliest practicable period. Well, sir, when the amendment was afterwards actually introduced, what reception was accorded to it? Why, it was discussed, and opposed, and denounced. And denounced by whom? I speak it with all possible respect—it was denounced by the honorable Senator from South Carolina already referred to. Here is his speech; it was declared by him not only to be unconstitutional, but pre-eminently dangerous—as a thing which had been wrong in its inception, and infinitely more objectionable then than it had been originally. Sir, at a subsequent period of the session, when the Missouri Compromise was again brought before us as an amendment, did the honorable Senator from South Carolina vote for it? Yes, sir; he did vote for it as an amendment to the Oregon bill, but he then refused to vote for the bill, on account of the Missouri Compromise being incorporated in it.

And, sir, let me ask now what on that occasion was the course of the Senator from Florida, (Mr. YULEE,) who sits furthest over the way, and who has the honor, at the present time, I believe, of being, I will not say the most leading and influential supporter of the Missouri Compromise, but who is well understood to be altogether the most zealous advocate which it has at the present time, either here or elsewhere? Sir, he voted against it as an amendment. He expressed the strongest opposition to it, and said that under no circumstances could he be induced to support it. The gentleman's tone has not a little changed of late. He is the champion of the Missouri Compromise now—yes, its earnest advocate, and can conceive of nothing else on the face of earth which the wit of man could devise half so well calculated as this same Compromise for terminating the distracting scenes through which we are passing.

I will now refer to what was said by the honorable Senator from South Carolina, in the principal speech which he delivered upon the Oregon question during the winter of 1847–'48. We will presently see what he thought then of the Missouri Compromise:

After an arduous struggle of more than a year, on the question whether Missouri should come into the Union, with or without restrictions prohibiting slavery, a compromise line was adopted between the North and the South; but it was done under circumstances which made it nowise obligatory on the latter. It is true, it was moved by one of her distinguished citizens, (Mr. CLAY;) but it is equally so that it was carried by the almost united vote of the North against the almost united vote of the South, and was thus imposed on the latter by superior numbers, in opposition to her strhnuous efforts The South has never given her sanction to it, or assented to the power it asserted She was voted down, and has simply acquiesced in an arrangement which she has not had the power to reverse, and which she could not attempt to do without disturbing the peace and harmony of the Union—to which she has ever been adverse. Acting on this principle, she

permitted the Territory of Iowa to be formed, and the State to be admitted into the Union, under the Compromise, without objection; and that is now quoted by the Senator from New York to prove her surrender of the power he claims for Congress

To add to the strength of this claim, the advocates of the power hold up the name of Jefferson in its favor, and go so far as to call him the author of the so called Wilmot Proviso, which is but a general expression of a power of which the Missouri Compromise is a case of its application If we may judge by his opinion of that case, what his opinion was of the principle, instead of being the author of the Proviso, or being in its favor, no one could be more deadly hostile to it. In a letter addressed to the elder Adams in 1819, in answer to one from him; he uses these remarkable expressions in reference to the Missouri question:

"The banks, bankrupt law, manufactures, Spanish treaty, are nothing. These are occurrences which, like waves in a storm, will pass under the ship. But the Missouri question is a breaker on which we lose the Missouri country by revolt, and what more God only knows."

To understand the full force of these expressions, it must be borne in mind that the questions enumerated were the great and exciting political questions of the day on which parties divided. The banks and bankrupt law had long been so. Manufactures (or what has since been called the protective tariff) was at the time a subject of great excitement, as was the Spanish treaty; that is, the treaty by which Florida was ceded to the Union, and by which the western boundary between Mexico and the United States was settled, from the Gulf of Mexico to the Pacific ocean. All these exciting party questions of the day Mr. Jefferson regarded as nothing compared to the Missouri question. He looked on all of them as, in their nature, fugitive; and to use his own forcible expression, "would pass off under the ship of State like waves in a storm." Not so that fatal question; it was a breaker on which it was destined to be stranded; and yet his name is quoted by the incendiaries of the present day in support of, and as the author of, a Proviso which would give indefinite and universal extension of this fatal question to all the Territories. It was compromised the next year by the adoption of the line to which I have referred Mr. Holmes, of Maine, long a member of this body, who voted for the measure, addressed a letter to Mr. Jefferson, enclosing a copy of his speech on the occasion. It drew out an answer from him which ought to be treasured up in the heart of every man who loves the country and its institutions. It is brief; I will send it to the Secretary to be read. The time of the Senate cannot be better occupied than in listening to it.

Notice, sir, that this very letter, which Mr. Calhoun said ought to be treasured up in the heart of every one who loves his country and its institutions, was a letter which he understood and pronounced to be a letter denunciatory of the Missouri compromise. I know that others have understood this letter differently; but that is unimportant to the point now under consideration. Let me read the letter itself, that all may duly appreciate its import:

MONTICELLO, APRIL 22, 1820.

I thank you, dear sir, for the copy you have been so kind as to send me of the letter to your constituents on the Missouri question. It is a perfect justification to them. I had for a long time ceased to read newspapers, or pay any attention to public affairs, confident they were in good hands, and content to be a passenger in our barque to the shore from which I am not distant. But this momentous question, like a fire-bell in the night, awakened and filled me with terror. I considered it at once as the knell of the Union. It is hushed, indeed, for the moment; but this is a reprieve only, not a final sentence. A geographical line, coinciding with a marked principle, moral and political, once conceived and held up to the angry passions of men, will never be obliterated; and every new irritation will mark it deeper and deeper. I can say, with conscious truth, that there is not a man on earth who would sacrifice more than I would to relieve us from this heavy reproach, in any *practicable* way. The cession of that kind of property (for so it is misnamed) is a bagatelle, which would not cost me a second thought, if, in that way, a general emancipation and *expatriation* could be effected; and gradually, and with due sacrifices, I think it might be. But as it is, we have the wolf by the ears, and we can neither hold him nor safely let him go. Justice is in one scale, and self-preservation in the other. Of one thing I am certain, that as the free passage of slaves from one State to another would not make a slave of a single human being who would not be so without it, so their diffusion over a greater surface would make them individually happier, and proportionally facilitate the accomplishment of their emancipation, by dividing the burden on a greater number of coadjutors. An abstinence, too, from this act of power would remove the jealousy excited by the undertaking of Congress to regulate the condition of the different description of men composing a State. This certainly is the exclusive right of every State, which nothing in the Constitution has taken from

them, and given to the General Government. Could Congress, for example, say that the non-freemen of Connecticut shall be freemen, or that they shall not emigrate into any other State?

I regret that I am now to die in the belief that the useless sacrifice of themselves by the generation of 1776, to acquire self-government and happiness to their country, is to be thrown away by the unwise and unworthy passions of their sons, and that my only consolation is to be that I live not to weep over it. If they would but dispassionately weigh the blessings they will throw away against an abstract principle, more likely to be effected by union than by scission, they would pause before they would perpetrate this act of suicide on themselves, and of treason against the hopes of the world. To yourself, as the faithful advocate of the Union, I tender the offering of my high esteem and respect.

THOMAS JEFFERSON.

To JOHN HOLMES.

But I will further read from the comments of Mr. Calhoun upon this letter:

Mark (said he) Mr. Jefferson's prophetic words! Mark his profound reasoning!

"It [the question] is hushed *for the moment*. But this is a *reprieve only*, not a *final sentence*. A geographical line coinciding with a marked principle, moral and political, *once conceived and held up to the angry passions of men, will never be obliterated, and every new irritation will mark it deeper and deeper*."

Twenty-eight years have passed since these remarkable words were penned, and there is not a thought which time has not thus far verified, and it is to be feared will continue to verify until the whole will be fulfilled. Certain it is that he regarded the compromise line as utterly inadequate to arrest that fatal course of events which his keen sagacity anticipated from the question. It was but a "reprieve."

"A reprieve only—not a final sentence;" and yet gentlemen, who profess the most profound deference for Mr. Calhoun's opinions, and who seldom, when alive, ventured to differ with him at all upon any public question, are now insisting that nothing else can be relied upon but the Missouri compromise, for the permanent settlement of the pending sectional controversy. Now, sir, I, who entertained a high respect for the opinions of Mr. Calhoun when living, but who did sometimes undertake to contest his views in regard to great national measures, must be permitted to declare, that I do not entirely concur in all that he said in the speech from which I am reading, in relation to the Missouri compromise. But to proceed with the speech:

Mark (said Mr. Calhoun) the deeply melancholy impression which it made on Mr. Jefferson's mind:

"I regret that I am to die in the belief that the useless sacrifice of themselves by the generation of 1776, to acquire self-government and happiness for themselves, is to be thrown away by the unwise and unworthy passions of their sons, and that my only consolation is to be that I live not to weep over it."

Can any one believe, after listening to this letter, that Jefferson is the author of the so-called Wilmot proviso, or ever favored it? And yet there are at this time strenuous efforts making in the North to form a purely sectional party on it, and that, too, under the sanction of those who profess the highest veneration for his character and principles! But I must speak the truth, while I vindicate the memory of Jefferson from so foul a charge. I hold he is not blameless in reference to this subject. He committed a great error in inserting the provision he did in the plan he reported for the government of the Territory, as much modified as it was. It was the first blow, the first essay "to draw a geographical line coinciding with a marked principle, moral and political." It originated with him in philanthropic but mistaken views of the most dangerous character, as I shall show in the sequel. Others, with very different feelings and views, followed, and have given to it a direction and impetus which, if not promptly and efficiently arrested, will end in the dissolution of the Union and the destruction of our political institutions.

Yes, sir, he urged that the attempt to bring about the re-enactment of the Missouri Compromise was an attempt to form a purely geographical party, and he denounced that attempt in the most unmeasured language.

It seems, sir, to be the duty, in part, which I have to perform this day to vindicate the great statesman of South Carolina from the unjust accusations preferred against him by his professed disciples of the present hour. He never was a Missouri Compromise man; he always scorned the compromise, and spoke of it with contempt. If I am wrong in regard to this matter, I am ready to be set right. I read from the published debates, and there can be no successful attempt at refutation of any thing which I have asserted, or which may hereafter assert. I will only read another short extract from the same speech, as follows:

I have, I trust, established beyond controversy that neither the ordinance of 1787, nor the Missouri Compromise, nor the precedents growing out of them, nor the authority of Mr Jefferson, furnishes any evidence whatever to prove that Congress possesses the power over the Territory claimed by those who advocate the twelfth section of this bill. But admit, for the sake of argument, that I am mistaken, and that the objections I have urged against them are groundless—give them all the force which can be claimed for precedents—and they would not have the weight of a feather against the strong presumption which I, at the outset of my remarks, showed to be opposed to the existence of the power. Precedents, even in a court of justice, can have but little weight, except where the law is doubtful, and should have little in a deliberative body, in any case, on a constitutional question, and none where the power to which it has been attempted to trace it does not exist, as I have shown, I trust, to be the case in this instance.

In the year 1847 Mr. Calhoun was equally explicit in declaring his opposition to the Missouri Compromise. Listen to what he said upon the 19th day of February, of the year mentioned:

Sir, here let me say a word as to the compromise line. I have always considered it as a great error—highly injurious to the South, because it surrendered, for mere temporary purposes, those high principles of the Constitution upon which I think we ought to stand. I am against any compromise line. Yet I would have been willing to acquiesce in a continuance of the Missouri Compromise, in order to preserve, under the present trying circumstances, the peace of the Union. One of the resolutions in the House, to that effect, was offered at my suggestion. I said to a friend there, "Let us not be disturbers of this Union. Abhorrent to my feelings as is that compromise line, let it be adhered to in good faith; and if the other portions of the Union are willing to stand by it, let us not refuse to stand by it. It has kept peace for some time, and in the present circumstances perhaps it would be better to be continued as it is." But it was voted down by an overwhelming majority. It was renewed by a gentleman from a non-slaveholding State, and again voted down by an overwhelming majority.

I see my way in the Constitution; I cannot in a compromise. A compromise is but an act of Congress. It may be overruled at any time. It gives us no security. But the Constitution is stable. It is a rock. On it we can stand. It is firm and stable ground, on which we can better stand in opposition to fanaticism, than on the shifting sands of compromise.

Let us be done with compromises. Let us go back and stand upon the Constitution!*

To return to my own course: The Missouri Compromise was not adopted at the session of Congress at which this speech of Mr. Calhoun was delivered. But I did not yet despair of its ultimate adoption.

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* Note.—I find, since speaking as above, that a Southern Senator, (Mr. Westcott,) in debating the Oregon question, used the following strong and decided language, in opposition to the Missouri compromise:

"Mr. President, I fear if I should vote for any such compromise, with my admitted impregnable convictions as to the baseless character of the claim of power made for Congress, I should expose myself to the charge of violating my oath to support the Constitution; and I now take occasion to declare that whatever may be the consequences, except to avert a civil war, I cannot vote for any bill recognising and extending the line 36° 30′ to the Pacific as a rightful act. I may consistently vote to amend a bill substituting such line for a provision extending the sixth article of the ordinance over all those Territories, as the least of two outrages; but I cannot then sustain a bill, even so amended, with my vote willingly given. Those who hold different opinions from me on the question of power have not the same restraints upon their action. They can waive the exercise of the right without encountering constitutional difficulties."

Knowing well that the people of the State of Mississippi were decidedly in favor of this Compromise, and sincerely believing that its adoption by Congress would greatly tend to quiet the country, at least for a season, I resolved not to give it up entirely, but to hold it still in reserve as a dernier resort, if other expedients should fail. We of the Democratic party organized in '48 on the non-intervention platform, somewhat under Mr. Calhoun's lead; because, although he did not vote with us in that election, he did to some extent participate in supplying us with our presidential platform. Yes, sir, it was his potential voice that first urged us in this hall not to adopt any mere geographical line upon which to rally our party forces, but to unite in the assertion and maintenance of a great constitutional principle, which he predicted would conduct us to victory in the presidential contest. These are his words:

But I go further, and hold that justice and the Constitution are the easiest and the safest guard on which the question can be settled, regarded in reference to party. It may be settled on that ground simply by non action—by leaving the Territories free and open to the emigration of all the world so long as they continue so; and when they become States to adopt whatever Constitution they please, with the single restriction, to be republican, in order to their admission into the Union. If a party cannot safely take this broad and solid position, and successfully maintain it, what other can it take and maintain? If it cannot maintain itself by an appeal to the great principles of justice, the Constitution, and self government, to what other, sufficiently strong to hold them in public opinion, can they appeal? I greatly mistake the character of the people of this Union, if such an appeal would not prove successful, if either party should have the magnanimity to step forward and boldly make it. It would, in my opinion, be received with shouts of approbation by the patriotic and intelligent in every quarter. There is a deep feeling pervading the country that the Union and our political institutions are in danger, which such a course would dispel.

Just as we propose in this bill. If our plan had been before him, he could not have been more accurate in the description of its general features. Gentlemen now say that this is not satisfactory to them. I know that they desire a special recognition of the right of slaveholders to go south of the line of 36° 30′ with their slaves. Mr. Calhoun repudiated this doctrine. I beg to be understood as repeating the language employed by him on this subject, and which I am about to read as part of my own speech; containing, as it does, views which I trust the country will approve and act upon:

There is a very striking difference between the position in which the slaveholding and non-slaveholding States stand in reference to the subject under consideration. The former desire no action of the Government; demand no law to give them any advantage in the Territory about to be established; are willing to leave it, and other Territories belonging to the United States, open to all their citizens, so long as they continue to be Territories, and when they cease to be so to leave it to their inhabitants to form such governments as may suit them, without restriction or condition, except that imposed by the Constitution, as a prerequisite for admission into the Union. In short, they are willing to leave the whole subject where the Constitution and the great and fundamental principles of self-government place it. On the contrary, the non-slaveholding States, instead of being willing to leave it on this broad and equal foundation, demand the interposition of the government, and the passage of an act to exclude the citizens of the slaveholding States from emigrating with their property into the Territory, in order to give their citizens, and those they may permit, the exclusive right of settling it, while it remains in that condition, preparatory to subjecting it to like restrictions and conditions when it becomes a State.

I beg of Southern Senators to notice this, and I ask them whether they sanction it or not? I tell them frankly that I do sanction it, and that I sanction it most heartily; and if they do not, then they are not as faithful to the memory, nor as deferential to the admonitions of the illustrious dead as I am, notwithstanding it has become fashion-

able of late to denounce me for a sort of factious disregard of Mr. Calhoun's opinions.

See what Mr. Calhoun said in the Southern Address, in regard to the great principle of non-intervention:

What we propose in this connexion is, to make a few remarks on what the North alleges, erroneously, to be the issue between us and them.

So far from maintaining the doctrine which the issue implies, we hold that the Federal Government has no right to extend or restrict slavery, no more than to establish or abolish it; nor has it any right whatever to distinguish between the domestic institutions of one State or section and another, in order to favor the one and discourage the other. As the federal representative of each and all the States, it is bound to deal out, within the sphere of its powers, equal and exact justice and favor to all To act otherwise, to undertake to discriminate between the domestic institutions of one and another, would be to act in total subversion of the end for which it was established—to be the common protector and guardian of all. Entertaining these opinions, we ask not, as the North alleges we do, for the extension of slavery. That would make a discrimination in our favor as unjust and unconstitutional as the discrimination they ask against us in their favor. It is not for them nor for the Federal Government to determine whether our domestic institution is good or bad; or whether it should be repressed or preserved. It belongs to us, and us only, to decide such questions. What, then, we do insist on is, not to extend slavery, but that we shall not be prohibited from emigrating, with our property, into the Territories of the United States, because we are slaveholders; or, in other words, that we shall not on that account be disfranchised of a privilege possessed by all others, citizens and foreigners, without discrimination as to character, profession, or color All, whether savage, barbarian, or civilized, may freely enter and remain, we only being excluded.

Sir, I have said that we accepted this advice in 1848; we combated upon the platform laid down by Mr. Calhoun. Our Northern democratic friends, anxious as they were to save the Union—having no preference at the time for any particular plan—and receiving advice from so high a quarter, from a person so well entitled to respect, rallied to a man in support of the non-intervention principle. We adopted it as a fundamental article of our party creed, both in the North and the South, in the East and the West; and what was the result? We were beaten in the presidential contest. But should a single defeat induce us to abandon a principle so recommended? I have thought not; and other gentlemen more distinguished than myself have concurred with me on this point. We have adhered to the platform of 1848, thus framed under the monitions of the distinguished statesman of South Carolina, and there are some of us who intend never to abandon it until driven from it by circumstances which it may not be in our power to control. Well, sir, during the last summer, finding that it had been impossible to settle this question on the basis of non-intervention, as we had hoped to do by the election of a democratic President—being still painfully solicitous to see the Republic rescued from the dangers which so fiercely menaced it, I renewed my efforts to bring the Missouri Compromise into favorable notice. For this purpose I wrote a letter to the eminent Pennsylvania statesman who had two years before recommended it, and urged him to renew his recommendation, in some public form, at a period early enough to have some effect upon the sentiment of the country before the commencement of the present session of Congress. He informed me that he had, in common with the whole Democratic party, given up the compromise in favor of non-intervention; that he had voted in support of the non-intervention principle in 1848, and he doubted the expediency of coming forward

again and urging the Missouri Compromise upon the country, as he had done in 1847. I still urged him to do so. I even paid a special visit to his hospitable mansion, chiefly with the view of procuring, if possible, the sanction of his high name once more to the plan of the Missouri Compromise: and I obtained from him a partial promise that he would again declare his views upon the subject at an early period. But, sir, as no publication from his pen made its appearance in the newspapers, I addressed repeated letters to him urging him again and again to perform the patriotic task to which I had invoked him. At length he made up his mind to gratify my wishes, and positively promised that he would again make a declaration of his views, if he could be perfectly satisfied that the Missouri Compromise was at all likely to be satisfactory to the people of the South, entertaining, as he did, a confident opinion that it would be generally accepted in the North. So things remained until a month or two of the present session of Congress had glided by, when he addressed a letter to an honored friend of mine, requesting him and myself to ascertain whether it would be at all possible to rally the Southern members of Congress in support of the Missouri Compromise; in which event he engaged to co-operate with us most cordially in urging its adoption upon Congress. The scrutiny asked for was instituted without delay; and the gentleman alluded to and myself, after conferring together repeatedly, and counselling in relation to the matter, came most reluctantly, but decidedly, to the conclusion, that the Southern members of Congress would never consent to take the Missouri Compromise, but preferred non-intervention still; and we so advised Mr. Buchanan without delay. Perceiving that no publication by him was then likely to be availing, he withheld from the press a letter which he had already prepared for publication.

Finding the condition of affairs in Congress to be so decidedly inauspicious to the Missouri Compromise, I endeavored, in common with others, to get up once more our non-intervention platform; and I must say that I moved for the Committee of Thirteen with the confident hope that this Committee would agree upon a plan of adjustment in which the principle of non-intervention would constitue a principal element, as it indisputably does in the plan before us. And what is now the state of affairs? I make no personal allusions to any one, but I speak according to facts established by irrefutable evidence, and which no man dare deny. The plan of adjustment was reported; it began to attract the popular attention—yea, more, to command the public respect, and many indications of public approval began to display themselves in the North and in the South, in the East and in the West; when, lo! to the surprise of the whole country, the Missouri Compromise was again suddenly brought forward, here and elsewhere, by the editors of certain newspapers—as some have supposed, but as I do not expressly charge—mainly for the purpose of defeating this bill, and preventing all adjustment whatever. We shall see, however, after awhile, which of these plans is the most *practicable*. The Missouri Compromise is before us now as an amendment; and what ought to be my course in regard to it? I have said already that I shall vote for it; that my constituents, whose feelings I profoundly respect, seem to desire it, and that I shall do so cheerfully,

inasmuch as I have been always willing to support it, when there was any prospect of its adoption.

But I wish to be perfectly understood in regard to this matter. With the facts distinctly imprinted upon my memory which I have already detailed, and with a clear perception of the evil consequences likely to arise from leaving this question unadjusted, so help me Heaven! I would as soon think of attempting anything, however impious, as to unite with those who have declared their determination to make the Missouri Compromise line a *sine qua non* to settlement. Never, under the circumstances which I have described—never will I give my sanction to any attempt to sever this glorious Union of ours, upon a mere geographical line, which, when established, may, after all, only tend permanently to establish geographical parties in the country, and which may possibly turn out to be a mere "reprieve," and not a real and solid adjustment. Such is my respect for the wishes and opinions of a portion of my own constituents, and my regard for *precedent*, that I could almost hope that the amendment of the honorable Senator from Louisiana may be adopted by both Houses of Congress. As I have said, I shall most cheerfully vote for it; but if it cannot be adopted, I shall vote for the bill notwithstanding, and take all the consequences of such a vote.

Let me now, in support of the general views to which I have given utterance, in relation to the policy of non-intervention, upon which this bill is framed, cite a very high Southern authority in addition to Mr. Calhoun. I shall read from a speech delivered by the honorable Senator from Georgia, (Mr. BERRIEN)—delivered almost immediately in succession to Mr. Calhoun upon the Oregon bill. I intend to show that the honorable Senator from Georgia then entertained the same sound non-intervention views which, as I suppose, he entertains at the present time. I am gratified at finding it in my power to call to my aid the influence of his great name in opposition to those who have so shamelessly abandoned our non-intervention platform, and who so unblushingly now contend that Congress shall specially intervene for the protection of the rights of the South, already, in my judgment, sufficiently shielded against infraction by the organic law of the land. I shall read a single paragraph only from this very able and, as I think, unanswerable speech:

> On this question of slavery, in every aspect in which it can be presented, our position—the position of the united South—is truly stated by the Senator from South Carolina (Mr. Calhoun.) We ask you simply to let us alone—leave us to the enjoyment of our domestic institutions, in which we cannot discover the evils which affright the imaginations of others, and do not punish us for adhering to them, by denying to us the common rights of American citizens. You refuse this. The bill before the Senate stamps the peculiar institution which exists in the community in which we live as one which is beyond the pale of legislative protection—as one which is so characterized by its own intrinsic impurity as to require you, in the exercise of your legislative authority, to deny to the citizens of the South, to those of every slaveholding State, a right to participate in the common benefits which belong to all the citizens of the United States. Under such circumstances, we would be wanting in self-respect, we would be faithless to the memory of our fathers who have lived in the midst of these institutions, fulfilling all their duties as men and as citizens, and who have gone to their rest with unstained reputations, if we could sit here in silence.
>
> I repeat to you, sir, (it is all we ask,) let us alone. With our domestic institutions, authorized and protected by our own laws, and recognized and guarantied by the Federal Constitution, we are contented and happy; we do not ask your assistance to uphold them; we cannot submit to your interference with them directly in the States where they exist, or elsewhere, and indirectly by denying to us the enjoyment of a common right, because of their existence among us. We

say to you, continue to enjoy in full measure the blessings which Providence has allotted to you—the free soil and free labor which commend themselves to your taste, and are approved by your judgment; but let us alone—leave us to the enjoyment of those institutions which we have received from our fathers, and do not seek, because we prefer them, to deprive us of our common rights under the Constitution. You refuse to listen to this appeal. The framers of this bill and its advocates in this chamber force this discussion upon us, and it must be met.

Several times on that occasion, when it was urged by Mr. Dix, of New York, that we were desirous of some congressional legislation for the special protection of the South, I denied the charge, and said that all we asked was to be let alone.

Mr. BERRIEN. Does the Senator from Mississippi wish to show that I concurred with Mr. Calhoun at that time in respect to the Missouri Compromise line?

Mr. FOOTE. Not in regard to the Missouri Compromise, but in reference to the principle of non-intervention. My object is not to assail the Senator from Georgia, but to establish the fact that his views were the same on the subject of non-intervention as those which I now entertain.

I shall not undertake to discuss the question of California admission at length. It is well known here that no member of this body is more opposed than I am to the admission of California as a separate measure. Upon this point I have so often and so explicitly declared my views, that I shall not now repeat them. My objections, though, arise chiefly from the manner in which the State organization of California has been set on foot. No Southern man has ever yet objected to the admission of a new State on the ground that she has thought proper to exclude slavery by her Constitution. This principle originated in the North, and has heretofore confined itself exclusively to that section of the Union. When the question was under consideration in this body whether Florida should be permitted to enter the Union, a highly excited and instructive debate occurred, in which certain distinguished Southern Senators, including the Senator from Georgia, (Mr BERRIEN,) participated; and the true doctrine upon the subject was asserted and maintained. I have always thought that the principle imbodied in the resolution introduced here by Mr. Calhoun in 1847 was the only true and constitutional one. That resolution is as follows:

Resolved, That it is a fundamental principle in our political creed that a people, in forming a constitution, have the unconditional right to form and adopt the government which they may think best calculated to secure their liberty, prosperity, and happiness; and that, in conformity thereto, no other condition is imposed by the Federal Constitution on a State, in order to be admitted into this Union, except that its constitution shall be republican; and that the imposition of any other by Congress would not only be in violation of the Constitution, but in direct conflict with the principle on which our political system rests.

Upon this resolution Mr. Calhoun offered some highly striking remarks, a portion of which I will now read:

Mr. President, not only is that proposition grossly inconsistent with the Constitution, but the other, which undertakes to say that no State shall be admitted into this Union which shall not prohibit by its constitution the existence of slaves, is equally a great outrage against the Constitution of the United States. Sir, I hold it to be a fundamental principle of our political system, that the people have a right to establish what government they may think proper for themselves; that every State about to become a member of this Union has a right to form its own government as it pleases; and that, in order to be admitted, there is but one qualification, and that is, that the government shall be republican. There is no express provision to that effect, but it results from that important section which guaranties to every State in this Union republican form of govern-

ment. Now, sir, what is poposed? It is proposed, from a vague, indefinite, erroneous, and most dangerous conception of private ind vidual liberty, to overrule this great common liberty which the people have of framing their own constitutions! Sir, the right of self government on the part of individuals is not near so easily to be established by any course of reasoning as the right of a community or State to self-government. And yet, sir, there are men of such delicate feeling on the subject of liberty—men who cannot possibly bear what they call slavery in one section of the country, although not so much slavery as an institution indispensable for the good of both races—men so squeamish on this point, that they are ready to strike down the higher right of a community to govern themselves, in order to maintain the absolute right of individuals in every possible condition to govern themselves!

So much for non-intervention, now and formerly; and I think that I may claim to have fully vindicated it by *authority*, if not by *argument*.

Whilst I occupy the floor, I will proceed to notice for a moment a certain letter which has appeared in the last number of the New York Herald, for the purpose of refuting a calumny that has gained a very extended circulation of late. In the letter to which I am alluding, it is stated that my course here is condemned by my own constituents, and various circumstances are alluded to as proving that fact. Well, sir, if this be the case, I have yet to find it out. I know very well that certain worthy editors in my own State have of late censured my support of the plan of adjustment, and that they seem to be of opinion that public sentiment in Mississippi is in a condition altogether unfavorable to me. With the evidences of a contrary state of things in my possession, I have but little to say touching this delicate point, until I shall once more reach my own home, and shall have enjoyed an opportunity of once more seeing my respected constituents face to face, and explaining to them all the circumstances which surround me here, and laying before them a statement of all the motives by which my conduct in relation to this measure has been influenced. It is my hope that certain *managing* politicians who have, for the attainment of other than patriotic objects, set on foot these attempts to do me injury in my absence, and whilst employed here night and day in the painful and laborious performance of public duty, will have the moral courage to confront me when I shall make my appearance before those to whom I hold myself accountable, as I intend, God willing, to expose all their machinations fully, and upon evidence, and *to call upon my fellow-citizens everywhere through the State to condemn or approve my conduct*. Yes, sir, I intend to take the popular vote upon this subject; and if a majority of votes shall be thrown against me, I shall resign my seat here without the least hesitation or delay. Meanwhile, I shall continue firmly in the performance of duty, let who may censure or traduce me. I wish to subjoin one other declaration. Not the smallest distrust has ever entered my mind in regard to the fidelty of the people of Mississippi to the Union. No man shall ever persuade me to suppose it even possible that any considerable portion of my constituents will lend their sanction to the dangerous disunion doctrines which, I regret to say, are prevailing to some extent both in the Northern and Southern sections of the Confederacy, and which are not without zealous champions in the two halls of Congress. I hold it to be the most impossible of all impossibilities that the State of Mississippi will ever be found in favor of secession, except in a case of "*intolerable oppression*," not now to be at all apprehended. But, sir, if, contrary to my belief, contrary to my hopes, that noble and patriotic State shall ever

yield to influences, either of domestic or foreign, and for "light and transient causes," shall enlist under the *black banner* of disunion, then, humble as I may be, and, all unworthy to occupy a seat in this grand national council house, I shall scorn any longer to be recognised as the Senatorial representative here even of the once glorious State of Mississippi. This is plain language; at such a moment I could use no other; and it is language not one word of which I shall ever retract, modify, or repent the utterance of. The extract from the letter in the Herald to which I have referred, is as follows:

The Democratic presses of Mississippi are down upon General Foote. We learn that the people are holding meetings there in condemnation of his course; and, if this business continues, there is no exact telling where General Foote will be on the engrossment of the bill. He delights in reflecting the popular opinions of his State; and it is not supposed that he considers himself old enough to volunteer as a martyr for the sake of settling the slavery question. Upon the final vote of General Foote depends, perhaps, the success of the bill. He has gone too far, we suspect, to vote against it; but will he be there? It is nobody's business, and yet is everybody's business; for a single vote may change the whole aspect of affairs, and the entire relations of parties and sections as they are now divided. A single vote may be enough to save or defeat the bill.

Well, sir, after what I have already said, I shall not go at length into a vindication of myself against the matter contained in this extract. Those who know me best will be able to determine whether I am a man likely to skulk from the just responsibilities of my acts here. If I ever yet avoided a vote upon any public question in order to save my poor modicum of personal popularity from detriment, the instance is not at present within my recollection. To all such scribblers as the one whom I now am noticing, whether assailing me in Northern or Southern prints, I shall content myself with responding, once for all, in language more energetic than any which I can originate. I say to all my calumniators:

"If I am traduced by tongues, which neither know
My faculties nor person, yet will be
The chroniclers of my doing, let me say
'Tis but the fate of place, and the rough brake
That virtue must go through. We must not stint
Our necessary actions, in the fear
To cope malicious censures; which ever,
As ravenous fishes do a vessel follow
That is new trimmed, but benefit no further
Than vainly longing. What we oft do best,
By sick interpreters, (once weak ones,) is
Not ours, or not allow'd; what worst, as oft,
Hitting a grosser quality, is cried up
For our best act. If we shall stand still,
In fear our motion will be mock'd or carp'd at,
We should take root here where we sit, or sit
State statues only."

I am not willing to conclude before making a last appeal to the members of this body in favor of the plan of adjustment. For this purpose I beg leave to call their attention to an article of intelligence which has just reached us of most momentous interest. We are informed that the people of New Mexico are engaged in an attempt to establish a State government; yes, sir, that such a government, in name at least, has already been set on foot. Under what authority all this has been done, we do not at present know; but I hope that the resolution which I had the honor to offer on yesterday, and which has this morning been

adopted, will shortly secure us full information upon the subject. This much, though, I will undertake to say at present: that, whoever be the man that has either planned, instigated, or sanctioned this vile scheme, is not a patriot, but an insidious traitor to the public weal, an enemy to his country, whose perfidy and ineffable profligacy I hope may ere long be branded with indelible infamy. Sir, this attempt to establish and organize a State government in New Mexico at this time was obviously intended to aid in defeating our plan of adjustment, and retain the country in its present excited condition. No man in his senses could ever have expected New Mexico to be admitted as a State at the present session of Congress. The honorable Senator from Kentucky, (Mr. CLAY,) with that frankness which has uniformly marked his course as a public man, has long since announced that he could not vote for the admission of New Mexico as a State at present. The distingushed Senator from Massachusetts, (Mr. WEBSTER,) with that manliness of character which belongs to him, has done the same thing; and the distinguished Senator from Michigan (Mr. CASS) has been equally explicit in announcing his determination not to vote for the present admission of New Mexico. Other Senators have expressed themselves to the same effect. Every body must have known, then, that it was impossible for New Mexico to be admitted into the Union at this session. But this is not the worst part of the case. This effort to set on foot a State organization is obviously about to result in the effusion of blood in civil strife; blood is about to stain the soil, the sacred soil of Texas—I say sacred, because that soil has been heretofore moistened with the blood of her heroic sons in her great struggle for independence and liberty. Our intelligence from Santa Fe is to this effect: Major Neighbors, the Texan commissioner, lately sent to the neighborhood of Santa Fe for the purpose of establishing civil organization over that portion of Texas lying in that neighborhood, has been compelled to desist from his undertaking, and has returned to Texas for the purpose of obtaining the aid of a military force competent to maintain the civil rights of Texas against the usurping violence of a lieutenant colonel of the United States army, acting with or without orders, as the case may be. Yes, sir, despotic military rule has been set up in opposition to the just territorial claims of one of the sovereign States of this Republic; and we are about to be plunged into all the horrors of a civil war, unless Congress shall interfete in season, and arrest the fatal course of events. The facts to which I am now referring are of unquestionable verity, as it would be altogether easy to show, were I permitted to name the respectable gentleman, a letter from whom, written at Santa Fe, to a member of this body, I was permitted to examine on yesterday. Yes, sir, this gentleman says that a collision of arms is confidently expected to occur between the regular troops of the United States and the citizen-soldiers of Texas, some time in the ensuing month, if we should do nothing to prevent it. Sir, this is a case of most appalling interest, not heretofore wholly unanticipated by me, as honorable Senators will bear witness. For, several weeks ago, a Senator now in my eye (Mr. SEWARD) used language here of a nature to show that he, at least, at that time, was in favor of the exercise of force by the United States, in opposition to the territorial

claim of Texas. Yes, sir, he dared to employ languagc on that occasion which filled me with indignation, and which I denounced at the time in terms which no one could fail to understand. On that occasion I declared, and I again seize the opportunity of declaring, that if a single drop of Texan blood shall be shed upon her own sacred soil, it will be the duty of every Southern man, able to bear arms, to rush to the scene of strife, in order to put down usurpation and to maintain the cause of justice and of right. And, sir, I then said, and I repeat it, that I do not doubt that in such a struggle hundreds of thousand of valiant men from the North also would be found lending their aid against military tyranny and the myrmidons of despotism. Now, sir, let me ask, who is willing to lend his aid in averting this tragic catastrophe? Who is willing to sacrifice a little of the pride of opinion, a little of that pertinacity in the maintenancc of peculiar views, which is one of the great evils of the present day? Who is willing to co-operate with the friends of this measure, in preventing the shedding of fraternal blood in New Mexico, and in thus rescuing the Union from the most serious danger with which it has been ever yet menaced? All must now know—no man indeed possessed of sound reason can deny—that this bill supplies the only means by which the dread scenes which I have but faintly depictured may be prevented; and those who refuse now to co-operate with us in this noble effort to prevent the dread strife of arms, will have a responsibility hereafte rto encounter, which I am sure that no man or set of men that this country has ever produced would be able to encounter without the entire destruction of public character.

REMARKS

OF

MR. G. W. JONES, OF IOWA,

ON

THE COMPROMISE BILL,

AND

OTHER QUESTIONS.

DELIVERED IN THE SENATE OF THE UNITED STATES, JUNE 18 & JULY 19, 1850.

Mr. JONES, of Iowa, in presenting, on Tuesday, July 19th, the subjoined resolutions from citizens of that State, addressed the Senate as follows:

Mr. PRESIDENT: I desire to present to the Senate, as an evidence of the state of public feeling in Iowa, certain resolutions which were unanimously adopted on the 5th of the past month, at a numerously attended Democratic Convention, which was held at Davenport, in that State, to nominate a candidate for Congress for the second district in the State, and at which Convention Lincoln Clark, Esq. was nominated. He, sir, was one of the late Cass and Butler electors, who, with my honored and esteemed colleague, traversed our State, and proclaimed upon the stump, before our people, their opposition to free-soilism, abolitionism, and every other ism which is calculated to distract and divide the American Democracy. They then sustained, in the most enthusiastic and bold terms, the doctrine of non-intervention, as set forth in the Nicholson letter of the candidate of our party for President of the United States. The people of the whole State, at the ballot-box, in November, 1848, sustained the course of our Presidential electors, by electing them, and by electing Democratic majorities in both branches of our Legislature; which Legislature, after electing my colleague and myself to the Senate, *refused* in the most emphatic manner to instruct us to vote for the WILMOT. Sir, we considered that act of our Legislature as a high compliment to ourselves, and as an evidence of the wisdom and patriotic spirit of the noble, generous, and confiding people whose faithful represenatives had elected us. Similar resolutions to these were also adopted at the Democratic Convention in the *first* district, but copies of which I have not now before me to present to the Senate.

The second set of resolutions, Mr. President, come to us from the largest and most respectable body of the Democracy of our State which has perhaps ever assembled within its limits. It met at the seat of Government of our State, on the 12th of last month, for the purpose, and nominated candidates for Governor, Secretary of State, Auditor, Trea-

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surer, and other high functionaries, all of whom are decided anti-proviso men, and anxious for a reconciliation of our present difficulties. It is needless to say, Mr. President, that my colleague and myself have received with pleasure these emanations of the feelings of the Democracy of Iowa, according, as they do, with our oft-repeated declarations and votes in this body. Although no such expressions have come to us from them as a party, I will not do the Whigs of our State the injustice to suppose that any *respectable* portion of them are opposed to the spirit of these resolutions and an early pacification of our councils here by the passage of the compromise bill of the Committee of Thirteen, or some other kindred measure. Both of the candidates of the Whig party for Congress, I learn, in the State, are anti-proviso men. Sir, I have all the time been decidedly of the opinion that the better way to settle our difficulties in relation to our newly-acquired Territories was by means of an "omnibus bill," if gentlemen see fit so to call it; ay, sir, a bill which shall embrace *all* the elements of discord which are now threatening the peace and harmony, if not the continuance of our noble Government as a unit. Sir, in the incipient steps I voted to keep California disconnected from the other territorial measures. A little reflection soon convinced me that I was *then* in error, and that it will be better to keep California *out*, composed as the parties in the House of Representatives are, until all the questions connected with the Territories and slavery are adjusted.

My residence of several years in slave States has convinced me that the evils, of which Free-Soilers and Abolitionists complain, are more attributable to the fanaticism of their own brains than the sufferings of the "poor slaves;" and, on the other hand, sir, that the free man of color is neither better fed, better clad, nor more content in mind than the slaves of Kentucky, Missouri, or Arkansas.

In a large correspondence, Mr. President—equal, perhaps, to that of any member of Congress—I have received from my constituents and friends *not one* letter which takes ground against the compromise bill. All are anxious for its speedy passage—no one doubting, if it should become a law, that it will settle this negro question, or at least until another addition of territory is acquired, which no one now anticipates.

Anxious as I am for the admission of California, I am unwilling that it should be done, and the other sores on the body politic left to fester, and ultimately, perhaps, to destroy the whole system, when the means of healing all at once are at our command, and can be safely and advantageously applied. The people of the Territories are quite as much, and in my opinion more in need of the fostering care of the parent Government than those of California are, they now having an organized government, and the number and strength to support themselves.

Since the receipt of these resolutions, I have seen an extract taken from a *Whig paper*, called the Des Moines Courier, which pronounces my colleague and myself "*pro-slavery men*," and says that "they do not truly represent the feelings or wishes of the people of Iowa, but a very small portion of them, known as the Dodge clique." Now, sir, this editor is the only person that I have heard of in Iowa, occupying a public or private position, who has seen fit to condemn our course. He is one of a family two or three of whose members are fed at the public crib, and are now enjoying offices from which good Democrats were re-

moved; and they are, or were, expecting at the hands of our late Chief Magistrate still further reward for their loyalty to him and his course of policy in reference to the *all-consuming* and *agitating* questions of the day—a hired editor, sir, who, believing that "the laborer is worthy of his hire," has seen fit to castigate us for pursuing a course which we honestly believe will conduce to the peace, prosperity, and happiness, not only of our own people, but of those of every other section of our Union. As I before remarked, sir, the views of my colleague were proclaimed aloud by him in every organized county of our State. My own were not so heralded; but wherever *I was* known, it was distinctly understood that I entertained views and expressed opinions coinciding with his and those of the noble standard-bearers of our party for President and Vice President of the United States in the last Presidential election. We are accused, too, of following the lead of the distinguished patriot of Kentucky (Mr. CLAY) in our votes for the compromise bill. This I consider a high compliment; because, sir, I am entirely certain that his course now will tend, as it did when the Missouri compromise act was passed under his guidance, to promote the interests of the nation. When these are at stake, I would despise myself if I could not look beyond and above mere party considerations. Sir, widely as I differ with that venerable man upon almost *every* political question of the day; sternly as I know him to be attached to the tenets of the party of which he may justly be said to be the founder and head; and firmly as I know myself to be devoted to those of the party of which I am an humble member, and widely as these differ, they have not and will not prevent me from uniting with him in support of any measure which has for its object the perpetuity of this Union.

A native of a free State, (Indiana,) and raised partly in slave States, I have, if I know myself, no prejudices or animosities to indulge in relation to the delicate subject of slavery. I am now, as I have ever been, opposed to it; by which I mean that in any State or Territory where that question is to be decided, were I a resident, no man would be more decided in his oppostion to its establishment than I would be. My opinions, my observations, and my feelings are against it; but under no circumstances will I consent to interfere with it where the Constitution and laws of my country have placed it. More than that: I will not vote for insulting enactments, nor lend myself to harass or excite the fears of those amongst whom it exists. Would to God that this Congress could so elevate itself above the passions and prejudices of the day as forever to give the quietus to this distracting question. Sir, I believe the bill now before us will effect that object; and so believing, I shall record my vote for it with unmixed pleasure.

Mr. President, when I think of the vast interests, both to this nation and to all mankind, which may be involved in the defeat of this great compromise measure—when I see the violence with which it is assailed by the ultras, both North and South—and when I reflect upon the closeness of the vote by which it is to be carried or defeated, I confess I do so with the most fearful foreboding for the future.

In conclusion, Mr. President, allow me to express the earnest hope that, ere the present week shall have closed, the Senate will, by a decisive vote, have passed this bill, and that the House of Representatives may soon thereafter do likewise.

I send the resolutions to be read at the Secretary's desk.

Resolutions adopted by the Democratic Convention of the Second Congressional District in Iowa held on the 5th June, 1850.

Resolved, That the proposition of President Taylor, relative to the admission of California into the Union, leaving the Territories of New Mexico and Utah without a government, and thus dodging the responsibility of action upon the Wilmot proviso, and leaving the question of slavery still open for continued discussion and excitement, is an unworthy artifice to avoid responsibilities, and a specimen of statesmanship discreditable to the intelligence of the age.

Resolved, That inasmuch as the compromise report made to the Senate by the Committee of Thirteen appointed on that subject coincides entirely with the views heretofore entertained and expressed by the Democratic party of this State; and inasmuch as we believe in the practicability of the proposed plan of settlement, and in the equity of its several propositions, we deem it but justice and our duty on this occasion to express our approbation of said report.

Resolved, That we deprecate, as dangerous to the harmony of the Union, and as an unwarrantable outrage upon the feelings of the people, the continued and prolonged excitement produced and kept up on the subject of slavery by designing demagogues in Congress and elsewhere, for selfish and interested motives, and that an immediate settlement of the question is demanded both by the public interest and the public wish.

Resolutions of the State Democratic Convention assembled at Iowa City.

Resolved, That it is as gratifying to the pride, as it is creditable to the patriotism of the Democrats of Iowa, that prominent statesmen of all parties, in seeking for a satisfactory adjustment of the difficulties which unfortunately exist between the slave and non-slaveholding States, are found uniting in the main on the policy of non-intervention; and while they arrogate to themselves no right to question the course of other States on this subject, they point to the fact, with feelings of unmingled satisfaction, that *they,* in co-operating with those who are striving to preserve the Union, are required to "tread no steps backward."

Resolved, That, regarding the preservation of our happy form of government as paramount to all other considerations, and believing that the threatened danger may be averted, we approve of the bill recently introduced into the United States Senate by the Committee of Thirteen, generally known as the "Compromise Bill."

Resolved, That as this bill authorizes the immediate admission of California—organizes the Territories of New Mexico and Utah—provides for the settlement of the Texan boundary question—enforces the provisions of the Constitution with regard to the reclamation of persons escaping from service—and abolishes the slave-trade in the District of Columbia—we believe its adoption as a whole would be hailed as a peace-offering by an overwhelming majority of the people; nor is our confidence in the wisdom of the measure diminished by the fact that the ultraists of both extremes are found united in opposition to it, but rather increased.

Remarks of Mr. JONES, of Iowa, in the Senate on the 18th of June, on the bill granting certain lands to the State of Iowa for the construction of the Davenport and Keokuk Railroad, and one from Davenport to the Missouri river. The bill passed the Senate.

Mr. PRESIDENT: I rise to ask a favor of the Senate; and, as it is but seldom I make calls upon the time of this body, I hope the indulgence will be accorded to me. I move you to take up and consider at this time, though not strictly in the order of business, bill No. 20, to grant alternate sections of the public lands to aid the State of Iowa to construct a railroad from Dubuque, via Iowa City and Keokuk. This bill, Mr. President, as I have amended and prepared it, is to conform in its provisions to the bill making a grant of land to the State of Illinois to aid that State in the construction of what is called the Central railroad. I have purposely made its provisions conform to the bill for Illinois, in order that there may be no necessity for amendment or discussion in relation to its provisions and principles, the whole having been fully discussed in this body at the time of the passage of that bill. This bill, as amended by my colleague and myself, with the consent of the Committee on Public Lands, unites the two bills reported from that Committee,

providing for grants of land to construct a railroad from Dubuque to Keokuk, and one from Davenport, via Iowa City, to the Missouri river. The quantity of land proposed to be appropriated, as near as I can estimate the same, with the data now given—the whole country through which the proposed roads are to be constructed not being surveyed—is about one million four hundred and fifty thousand acres; being some seventy or eighty thousand acres less than was granted to our sister State of Illinois.

The bill was taken up and read, together with a substitute reported as an amendment by the Committee, and an amendment to the amendment which was offered by Mr. JONES.

Mr. HAMLIN. There are two or three things which I desire to know before I vote on this bill, and I presume the Senator from Iowa can give me the information I desire. I wish to know, first, the number of acres appropriated by the amendment proposed by the Senator from Iowa; and, second, I desire to know whether there is any provision in either of the amendments, or in the original bill—for I believe this is a triangular bill—providing for the disposition of the remaining sections, after the alternate sections shall have been selected for the railroad, for any sum beyond the maximum price established by law, $1 25?

Mr. JONES. In answer to the inquiry of the Senator I have to state, that the alternate sections reserved to the United States within the limits of this grant, are to be increased in the minimum price of $1 25 per acre, to $2 50. I consider this an illiberal provision; but as it was incorporated in the Illinois grant, and as the passage of our bill might be endangered were the reserved sections not enhanced in price, we have been constrained to submit to this (as we regard it) onerous provision, imposed upon us by the Committee before presenting it to the Senate for its action. The Government will lose nothing by the grant at all, but, on the contrary, will be greatly benefitted, and its treasury replenished by the immediate and much more rapid sale of its public domain. The anticipated construction of these roads will direct the attention of the emigrants to the country through which they are to pass, and will cause the sale of millions of acres of land—the prairie and other less valuable portions of which would not otherwise be sold for many years to come, because of the difficulty of procuring timber, and of transporting to market the immense amount of surplus produce which our State must eventually, and at no distant day, yield.

The first of these railroads is to connect with the great national railroads which bind the wealthy eastern cities of Boston, New York, Philadelphia, and the western cities of Buffalo, Detroit, Chicago, and Galena, with the Father of Waters, at the flourishing young city of Dubuque, which is the heart of one of the richest and most extensive mineral and agricultural regions in America. It is to run a distance of about one hundred and eighty miles, in a southwestern direction, through the interior of our State, and by way of our seat of government, Iowa City, to Fairfield and other flourishing towns and rich portions of Iowa, to the city of Keokuk, in the most wealthy and populous county in our State.

The road from Davenport to the Missouri river, is intended to be the last link which is to unite the territories of the United States which lie west of the Missouri river with another branch of railroads which run further to the south, through the States of Ohio, Indiana, and Illinois,

and which are now being prosecuted with considerable energy, as I am informed by those States. The completion of these works of internal improvement, is earnestly desired by the people of our State, who have held public meetings, conventions, &c., in various places, and at all seasons, at great trouble, cost, and expense to themselves. Sir, as one of their representatives, I sincerely hope this boon may be granted to them.

Mr. UNDERWOOD. I wish to get some additional information from the gentleman from Iowa before I vote upon this amendment. I want to know whether these railroads which have been contemplated here have been begun? Whether any steps have been taken to make any of them? Whether any company has been chartered to construct them? Whether the State has done anything to put these works into operation? Or whether it is merely a grant of land, in contemplation that the State will hereafter do something to construct these roads and to provide the necessary funds? Now, sir, I have been quite liberal in granting lands and feel disposed to be liberal in granting lands for the purpose of internal improvement, for that is one of the articles of my political creed. If it is not done by the United States let it be done by the States; and if not by the States let it be done by companies. But it seems to me that this bill contemplates going further than we ever have gone heretofore, by granting lands in anticipation that the State will do something for the purpose of constructing the roads. I am dispoped to wait until the State shall have commenced operations, as in the case of Illinois the other day; and if Iowa has actually commenced these works, I have no objection at all to give to her, so far as she may have commenced them, the same grant which we gave to Illinois. I do not think it would be proper to make the grant without information on this point.

Mr. DODGE of Iowa. The people of our State feel a deep interest in this measure. My colleague has had the more immediate charge of the bill, and has worked for it most industriously, both in the Committee and in the Senate. He is also possessed of more information respecting the bill than I am. I am happy, however, to have it in my power to answer the inquiry of my worthy friend from Kentucky, (Judge UNDERWOOD,) and to say to him and the Senate, that the legislature and people of Iowa have moved in this matter and have done all that their limited resources would enable them to do. They have had a very thorough survey of all of the routes, by a gentleman highly competent to perform that duty—Maj. McKean, a graduate of West Point—have organized companies, and are seeking by every means in their power to enlist capital and capitalists to accomplish these works. But much the larger portions of these roads run through and upon the public lands, and the people are desirous of obtaining this grant of land as the resource from which to raise the funds to enable them to complete these great works the importance of which has been so fully set forth by my colleague, as not to require recapitulation by me.

PASSAGE OF THE BILL THROUGH THE SENATE, GRANTING LANDS TO THE STATE OF IOWA FOR RAILROADS.

U. S. SENATE, *June* 19, 1850.

GENTLEMEN: I inclose, herewith, a copy of the Bill granting land to our State to aid us in the construction of the two Railroads, for which our Legislature and people have memorialized Congress, and which are to run, the one from Dubuque, via. Iowa city, Fairfield, &c., to Keokuk; the other from Davenport, by our seat of government, to the Missouri river.

The bills for these two roads were introduced separately by myself and colleague; but upon consultation and reflection we concluded to unite them, the *whole* grant being a trifle less as to the number of acres than that made for Illinois, we were inclined to believe that the two united would be as apt to pass as either *separately*, and would require but half the time and discussion that two distinct bills would. We were informed, too, that the Committee on the Public Lands of the House were, and perhaps now are, intending to connect another branch to the bill for Terre Haute, Indiana. I fear that such a connection would somewhat endanger the passage of the bill, as it would greatly increase the quantity of land to be donated.

I feel sanguine that our bill will become a law, if the consuming and agitating question of the Compromise Bill does not prevent, for which bill my colleague, in an *able and efficient manner*, and I in an humble one, earnestly give our support, we hope, and doubt not, with the universal approbation of our constituents.

I send you the paper of to-day, which contains yesterday's debate relative to our Railroad bill as it has passed and has gone to the House for its concurrence.

Your obedient servant, GEO. W. JONES.

Messrs. PALMER & PAUL, Eds. &c.

A BILL granting the right of way, and making a grant of land to the State of Iowa, in aid of the construction of certain railroads in said State.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the right of way through the public lands be, and the same is hereby granted, to the State of Iowa for the construction of railroads from the city of Dubuque to Keokuk and from Davenport on the Mississippi river in said State, as may be designated by the authority of said State, and to such point as the said authority shall select, on the Missouri river, which authority shall also fix and determine the route of each of said railroads and shall have the right also to take necessary materials of earth, stones, timber, &c. for the construction thereof from the public lands of the United States adjacent to said railroads: *Provided*, That the right of way shall not exceed one hundred feet on each side of the length thereof, and a copy of the survey of said roads made under the direction of the Legislature, shall be forwarded to the proper local land offices respectively, and to the General Land Office at Washington city, within ninety days after the completion of the same.

SEC. 2. *And be it further enacted*, That there be, and is hereby, granted to the State of Iowa, for the purpose of aiding in making the railroads aforesaid, every alternate section of land designated by even numbers, for six sections in width on each side of said roads; but in case it shall appear that the United States have, when the lines or routes of said roads are definitely fixed by the authority aforesaid, sold any part of any section hereby granted, or that the right of pre-emption has attached to the same, then it shall be lawful for any agent or agents to be appointed by the Governor of said State, to select, subject to the approval aforesaid, from the lands of the United States most contiguous to the tier of sections above specified, so much land in alternate sections or parts of sections, as shall be equal to such lands as the United States have sold, or to which the right of pre-emption has attached as aforesaid, which lands being equal in quantity to one-half of six sections in width on each side of said roads the State of Iowa shall have and hold to and for the use and purpose aforesaid: *Provided*, That the lands to be so located, shall in no case be further than fifteen miles from the line of the road in each case: *And provided further*, That the construction of said railroads shall be commenced at each terminus of each of said railroads on the Mississippi river simultaneously, and continued from each of said points until completed, according to the survey and location thereof: *Provided further*, That the lands hereby granted shall be applied in the construction of said roads respectively, in quantities corresponding with the grants for each, and shall be disposed of only as the work progresses in each case, and shall be applied to no other purpose whatever: *And provided further*, That any and all land heretofore reserved to the United States by any act of Congress for the purpose of aiding in any object of internal improvement or for any other purpose whatever, be, and the same are hereby reserved to the United States from the operations of this act, except so far as it may be found necessary to locate the routes of the said railroads through such reserved lands.

SEC. 3. *And be it further enacted*, That the sections and parts of sections of land which, by such grant, shall remain to the United States, within six miles on each side of each of said roads shall not be sold for less than double the minimum price of the public lands when sold.

SEC. 4. *And be it further enacted*, That the said land hereby granted to the said State shall be subject to the disposal of the Legislature thereof, for the purpose aforesaid and no other; and the said railroad shall be and remain a public highway, for the use of the Government of the United States, free from toll or other charge, upon the transportation of any property or troops of the United States.

SEC. 5. *And be it further enacted*, That if the said railroad shall not be completed within ten years, the said State of Iowa shall be bound to pay to the United States the amount which may be received upon the sale of any part of said lands by said State, the title to the purchasers under

said State remaining valid; and the title to the residue of said lands shall reinvest in the United States, to have sold the same in the same manner as if this act had not been passed.

SEC. 6. *And be it further enacted*, That the United States mail shall, at all times, be transported on said railroad, under the direction of the Post Office Department, at such price as the Congress may by law direct.

SWAMP LANDS IN ARKANSAS.

Mr. BORLAND moved that the Senate take up the Senate bill, No. 3, being the bill to grant to the State of Arkansas the public lands remaining unsold, on account of overflow, in that State; which motion was agreed to.

Mr. JONES. Mr. President, this is a general bill, and applicable to every State in which there are public lands covered with swamps. There is not much of this description of land in the State from which I come, but a sufficient quantity to make me feel a deep interest in the passage of this bill. I do not expect to be able to add much to what has been so well said by my distinguished friend from Illinois, (Mr. SHIELDS,) and others, in support of this measure. His (Mr. S's.) long and intimate knowledge of every thing connected with our land system, having been for several years, as we all know, its efficient head, enables him to speak with a more correct knowledge of the details of this subject, than perhaps any other member of the Senate.

Having been for several years connected with the surveys of the public lands, my attention has been necessarily drawn to this particular subject. These swamp lands are now entirely valuless to the General Government, and are highly injurious to the health and settlement of those portions of the States in which they lie: so much so, indeed, as to injure, and oftentimes to prevent the sales of the contiguous lands, which are susceptible of cultivation and inhabitation. The question then is, sir, whether the General Government will continue its ownership over these inundated lands—which spread death and disease amongst the people—or, by surrendering them to the States, allow them to be rendered fit for cultivation and settlement. No one, I presume, ever thinks that the United States will ever enter upon any system for the reclamation of these lands; the sooner, then, it parts with its ownership, the better for all concerned. Something has been said as to the quantity of these lands to be granted by this bill; with me, it makes no difference whether the quantity be more or less. I act upon the principle that we are all bound to do something with these refuse lands, and I know of no other or better mode of disposing of them, than that proposed by this bill. I shall, therefore, willingly vote for this bill, and most sincerely hope that it may become a law.

It is made the duty of the Government deputy surveyor, by law, and under the instructions of the surveyor-general, to designate the swamp lands. They are therefore, so delineated upon the plats, and by the field-notes of the deputies, as to enable the Commissioner of the General Land Office to assign them to the States in which they lie, without there being any danger that any other than swamp lands would or could be given to such States.

REMARKS

OF

HON. DANIEL WEBSTER,

In the Senate of the United States, June 17, 1850. *Together with Mr. Webster's Letter to Robert H. Gardiner, esq., and other citizens of Maine.*

The Senate having under consideration the Compromise bill, the pending question being an amendment offered by Mr. SOULE, of Louisiana:

Mr. WEBSTER said:

On the 7th of March, sir, I declared my opinion to be, that there is not a square rod of territory belonging to the United States, the character of which, for slavery or no slavery, is not already fixed by some irrepealable law. I remain of that opinion. The opinion, sir, has been a good deal canvassed in the country, and there have been complaints—sometimes respectful and decorous, and sometimes so loud and so empty as to become mere clamor. But I have met with no argument upon any question of law embraced in that opinion, which shakes the firmness with which I hold it, nor have I heard any discussion upon any matter of fact, as to that part of the opinion which rests on facts, which leads me to doubt the accuracy of my conclusions as to that part of the opinion which regarded the true construction, or I might with more propriety say, almost the literal meaning, of the resolutions by which Texas was admitted into the Union. I have heard no argument calculated, in the slightest degree, to alter that opinion. The committee, I believe, with one accord, concurred in it. A great deal of surprise, real or affected, has been expressed in the country at the announcement by me of that opinion, as if there were something new in it. Yet there need have been no surprise, for there was nothing new in it. Other gentlemen have expressed the same opinion more than once; and I myself, in a speech made here on the 23d day of March, 1848, expressed the same opinion, almost in the same words, with which nobody here found any fault; at which nobody here cavilled or made question, and nobody in the country.

With respect to the other ground on which my opinion is founded, that is, the high improbability, in point of fact, that African slavery could be introduced and established in any of the Territories acquired by us in pursuance of the late treaty with Mexico, I have learned nothing, heard nothing, from that day to this, that has not entirely confirmed that opinion. That being my judgment on this matter, I voted very readily and cheerfully to exclude what is called the Wilmot Proviso from these Territorial bills, or to keep it out, rather, when a motion was made to introduce it. I did so, upon a very full and deep conviction that no act of Congress, no provision of law, was necessary in any degree for that purpose; that there were natural and sufficient reasons and causes excluding forever African slavery from those regions. That was my judgment, and I acted on it; and it is my judgment still. Those who think differently, will, of course, pursue a different line of conduct, in accordance with their own judgments. That was my opinion then, and it has been strengthened by every thing that I have learned since, and I have no more apprehension to-day of the introduction or establishment of African slavery in these Territories, than I have of its introduction into, and establishment in, Massachusetts.

Well, sir, I have voted not to place in these Territorial bills what is called the Wilmot Proviso, and by that vote having signified a disposition to exclude the prohibition, as a thing unnecessary, I am now called upon to vote upon this amendment, moved by the honorable member from Louisiana, (Mr. SOULE,) which provides that the States formed out of New Mexico and Utah shall have the right and privilege of making their own constitutions, and of presenting those constitutions to Congress conformably to the Constitution of the United States, with or without a prohibition against slavery, as the people of those Territories, about to become States, may see fit to declare. I have not seen much practical utility in this amendment, I agree. Nevertheless, if I should vote, now that it is presented to me, against it, it might leave me open to

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suspicion of intending, or wishing, to see that accomplished in another way hereafter, which I did not choose to see accomplished by the introduction of the Wilmot Proviso. That is to say, it might seem as if, voting against that form of exclusion or prohibition, I might be willing still that there should be a chance hereafter to enforce it in some other way. Now, I think that ingenuousness and steadiness of purpose, under these circumstances, compel me to vote for the amendment, and I shall vote for it. I do it exactly on the same grounds that I voted against the introduction of the proviso. And let it be remembered, that I am now speaking of New Mexico and Utah, and other territories acquired from Mexico; and of nothing else. I confine myself to these; and, as to them, I say, that I see no occasion to make a provision against slavery now, or to reserve to ourselves the right of making such provision hereafter. All this rests on the most thorough conviction that, under the law of nature, there never can be slavery in these Territories. This is the foundation of all. And I voted against the proviso, and I vote now in favor of this amendment, for the reason that all restrictions are unnecessary, absolutely unnecessary; and as such restrictions give offence, and create a kind of resentment, as they cause a degree of dissatisfaction, and as I desire to avoid all dissatisfaction as far as I can, by avoiding all measures that cause it, and which are in my judgment wholly unnecessary, I shall vote now as I voted on a former occasion, and shall support the amendment offered by the honorable member from Louisiana. I repeat again, I do it upon the exact grounds upon which I declared, upon the 7th day of March, that I should resist the Wilmot Proviso—the precise grounds.

Sir, it does not seem to strike other Senators as it strikes me, but if there be any qualification to that general remark which I made, or the opinion which I expressed on the 7th of March, that every foot of territory of the United States has a fixed character for slavery or no slavery; if there be any qualification to that remark, it has arisen here, from what seems to be an indisposition to define the boundaries of New Mexico; that is all the danger there is. All that is part of Texas was by the resolutions of 1845 thrown under the general character of Texan territory; and if, for want of defining the boundaries of New Mexico by any proceeding or process hereafter, or by any event hereafter, let me say to gentlemen, that if any portion which they or I do not believe to be Texas should be considered to become Texas, then, so far, that qualification of my remark is applicable. And therefore, I do feel, as I had occasion to say two or three days ago, that it is of the utmost importance to pass this bill, to the end that there may be a definitive boundary, fixed now, and fixed forever, between the territory of New Mexico and Texas, or the limits of New Mexico and the limits of Texas. Here the question lies. If gentlemen wish to act efficiently for their own purposes, here it is, in my poor judgment, that they are called upon to act. And the thing to be done, and done at once, is to fix the boundaries of New Mexico.

Mr. President, when I see gentlemen from my own part of the country, no doubt from motives of the highest character, and for most conscientious purposes, not concurring in any of these great questions with myself, I am aware that I am taking on myself an uncommon degree of responsibility. The fact that gentlemen with whom I have been accustomed to act in the Senate took a different view of their own duties in the same case, naturally led me to reconsider my own course, to re-examine my own opinions, to re-judge my own judgment. And now, sir, that I have gone through this process, without prejudice, as I hope—and certainly I have done so under the greatest feeling of regret, at being called upon by a sense of duty to take a course which may dissatisfy some to whom I should always be desirous of rendering my public course and every event and action of my public life acceptable—yet I cannot part from my own settled opinions. I leave consequences to themselves. It is a great emergency, a great exigency that this country is placed in. I shall endeavor to preserve a proper regard to my own consistency; but I shall, nevertheless, perform what I believe to be a high duty, promptly and fearlessly. And here let me say, that neither here nor elsewhere has any thing been advanced to show that on this subject I have said or done any thing inconsistent, in the slightest degree, with any speech, or sentiment, or letter, or declaration that I ever delivered in my life; and all would be convinced of this, if men would stop to consider, and look at real differences and distinctions. But where all is general denunciation, where all is clamor, where all is idle and empty declamation, where there is no search after exact truth, no honest disposition to inquire whether one opinion is different from the other—why, every body, in that way of proceeding, may be proclaimed to be inconsistent.

Now, sir, I do not take the trouble to answer things of this sort that appear in the public press. I know it would be useless. Those who are of an unfriendly disposition would not publish my explanations or distinctions, if I were to make them. But, sir, if any gentleman here has any thing to say on this subject—though I throw out no challenge—yet, if any gentleman here chooses to undertake the task—and many there possibly are, who think it an easy task—to show in what respect any thing that I said in debate here on the 7th of March, or any thing contained in my letter to the gentlemen of Newburyport, or any where else, is inconsistent with any recorded opinion of mine, since the subject of the annexation of Texas began in 1837, I will certainly answer him with great respect and courtesy, and shall be content to stand or fall by the judgment of the country.

Sir, my object is peace. My object is reconciliation. My purpose is, not to make up a case for the North, or to make up a case for the South. My object is not to continue useless and irritating controversies. I am against agitators, North and South. I am against local ideas, North and South, and against all narrow and local contests. I am an American, and I know no locality in America that is my country. My heart, my sentiments, my judgment, demand of me that I shall pursue such a course as shall promote the good, and the harmony, and the Union of the whole country. This I shall do, God willing, to the end of the chapter.

The honorable Senator resumed his seat amidst general applause from the gallery.

CORRESPONDENCE.

To the Hon. Daniel Webster:

The subscribers, inhabitants of the cities and towns on Kennebec river, though not your immediate constituents, yet, as citizens of our common Republic, cannot refrain from expressing to you the deep sense of the obligation which you have conferred upon the whole country, by your recent effort in the Senate of the United States to allay the spirit of sectional strife which threatened the destruction of our Union. No confederated States, either in ancient or modern times, have been preserved from intestine commotion and civil war. If, as some suppose, we are confederated States, still we are only an exception to the general rule, and it is but a short time since that the slavery question threatened to bring those evils upon us; and should the South and the North be separated, no human wisdom could predict the evils that would follow. We have been induced to offer this expression of our feelings from observing the obloquy cast upon you by a portion of the press in this State. The press may convey the excited feelings of the moment, but those feelings frequently arise from an ardent desire to effect what is deemed a great good, irrespective of consequences; but we feel confident that reflecting minds, and those which permanently guide public opinion, will eventually have their influence, and that the patriotism and courage of that statesman will be generally acknowledged, who, regardless of consequences to himself, boldly threw himself into the breach, and brought back his countrymen to feel the invaluable blessings of the Union, and the duty imposed upon them for its preservation.

Gardiner, April, 1850.

R. H. Gardiner,	John P. Hunter,	E. G. Byram,	Edward Swan,
A. T. Perkins,	Wm. H. Byram,	F. Allen,	L. Clay,
Samuel B. Tarbox,	Benjamin Shaw,	F. P. Theobald,	Samuel C. Grant,
H. Tupper,	G. W. Bachelder,	F. K. Swan,	Arthur Berry.

Hallowell.

John Merrick,	Jas. Sherburne,	Thos. B. Brooks,	Rufus R. Page,
Jesse Aikin,	A. Pease,	James C. Dwight,	John Johnson,
W. S. Marshall,	Peter Atherton,	J. Gardner,	S. Davenport,
C. H. Strickland,	J. S. P. Dument,	T. M. Andrews,	F. Glazier,
Eben Horn,	W. M. Vaughn.		

Augusta.

William Woart,	Hanson Baker,	Thos. Lambert,	Henry Williams,
J. J. Eveleth,	J. A. Thompson,	Geo. W. Morton,	James Bridge,
Allen Lambert,	D. Williams,	D. C. Stanwood,	Cyrus Briggs,
G. W. Stanley,	William Bryan,	Jonathan Hedge,	David Fales.

Bath.

Wm. Ledyard	Jonathan Hyde,	J. W. Ellingwood,	Wm. D. Sewell,
Ebenezer Clap,	Gilbert Trufant,	Geo. F. Patten,	John Patten,
J. C. L. Booker,	Henry Hyde,	R. H. McKown,	John H. Kimball,
J. H. McLellan,	B. C. Bailey,	Thos. M. Reed,	Alden Morse,
William Morse,	John E. Brown,	F. Clark,	Wm. M. Rogers.

Reply of Mr. Webster.

Washington, *June* 17, 1850.

Gentlemen: Your friendly and acceptable letter of April was received.

It is true, gentlemen, that I have made an effort in the Senate "to allay the spirit of sectional strife, which has threatened the destruction of our Union;" and such efforts I shall continue to make, earnestly, and with whatever ability I possess, under a deep conviction that that "spirit of sectional strife," if not checked, will ere long drive the country into a lamentable and disastrous condition. It is exceedingly to be regretted, that any part of the public press in the State

in which you reside, or elsewhere, should discourage, and, as it often does, denounce all attempts at reconciliation and peace; and should contribute, by its daily effusions, to promote ill-will, resentment, and angry contests between the North and South. That all this is done by a portion of the press, both North and South, is but too true. The conductors of these presses would seem to have lost all sense of a common country, all sentiments of patriotism, unless there may be patriotism in those local feelings, in which the great Father of his Country so affectionately admonished us never to indulge. That the conductors of these presses mistake the opinions of the people, to a very considerable extent, I doubt not; but while they are so active and so zealous, who can tell how far, or how fast, their sentiments may spread?

It is no longer to be doubted, that there are persons both in the North and in the South, who are opposed to the existence of the present Constitution of the United States, and would gladly see it brought to an end. Some in both extremes openly avow this wish, and others conceal it under very thin disguises. Nevertheless, the great body of the people, North and South, are firmly attached to the Union; their hearts are for it, and with it, and they will defend it against all open attempts for its overthrow. This is my decided opinion. The Union, therefore, we may hope, will not be rudely broken up; but this spirit of sectional strife, if it be not effectually rebuked, will produce infinite mischiefs, by embarrassing the Government, thwarting and defeating useful legislation, and increasing, more and more, feelings of discord and alienation. Who does not see, already, the alarming consequences provoked and produced by these dissensions? We are now in the seventh month of the session of Congress, and what has been done? Even the ordinary annual appropriation bills have not been brought forward, or advanced a single stage. They are at least four months behind the proper time. It has at last become indispensably necessary, it seems to me, that men of sense and intelligence, who are really lovers of their country and its Union, should open their eyes to the state of things. There will be, there must be, it is in the nature of things that there should be, some shock, some cessation in the movement of the Government, some disreputable irregularity, now not far ahead, unless the good men of the country, in all its parts, will rouse themselves to the performance of the duties which the exigency demands.

While so many persons and so many presses in the North maintain such loud and bitter complaints against the South, and while so many persons and so many presses in the South utter complaints equally loud and bitter against the North, neither the North nor the South states, definitely and precisely, any actual grievance, such as could justify, in any reasonable man's opinion, the most distant idea of disunion. For the most part, these mutual complaints are general, indeterminate, uttered in angry terms, but placed on no specific ground. In the speech to which your letter refers, I have mentioned what I think to be the real ground of mutual or reciprocal complaint; but, beyond all these, there is kept up a general cry of one party against the other, that its rights are invaded, its honor insulted, its character assailed, and its just participation in political power denied. Sagacious men cannot but suspect, from all this, that more is intended than is avowed; and that there lies at the bottom a purpose of the separation of the States, for reasons avowed or disavowed, or for grievances redressed or unredressed. This purpose, be it remembered, I do not consider as pervading large masses, but of its existence among the *Extremists*, on both sides, I cannot entertain a question.

In the speech to which you refer, it was my purpose, among other things, to show that a peaceable secession of some States from the rest, or a peaceable separation of them all, was among the most improbable of imaginable events; that nature, the seas, the gulfs, the lakes, and the rivers, bound us together by ties nearly impossible to be broken; that no man could make any plan of secession or separation satisfactory to others; and, more than all, that no man could discern any thing as likely to arise to any State, from secession or separation, not fraught with political evil of every description, and every degree. And notwithstanding the influence and the opinions of which I have spoken, I believe that the sentiments of the great mass of Southern men concur with my own. Many have contemplated separation as a probable result; some certainly have desired, and do desire it; but, so far as I have observed, when the question is put directly home to the people, notwithstanding whatever certain presses and certain politicians say to the contrary, the people of the South are still for the UNION by immense majorities. Wherever there is a truly American heart, the love of the UNION is entwined in its inmost fibres. It is our duty to encourage and applaud this popular feeling; to respect it ourselves, and to take care that, by no denial of justice, by no unnecessary discussion of exciting but abstract questions, by no threat or menace *to interfere with what does not belong to us*, we do not weaken that attachment to the Union which is so indispensable to the happiness of all. And what is the duty of the North, in this respect, is equally the duty of the South. All sides are called on to exercise a far greater degree of forbearance and moderation, if we mean to transmit to the next generation the blessings enjoyed by this.

I shall do all I can to warn the country against the dangers of this intestine strife; to call both the South and the North back to a sense of their true duties and their true interests. And if I cannot allay the evil, I shall at least do nothing to promote it. I shall do nothing to cause jealousy, heartburning, and animosity, among those whose country is one, whose interests are

one, and whose destiny, whatever any of them may think of it, is, in my opinion, one; one now, and one hereafter.

Gentlemen, one of the exciting questions of the present moment respects the necessity of excluding slavery, by law, from the territories lately acquired from Mexico. If I believed in any such necessity, I should, of course, support such a law. I could not do otherwise, consistently with opinions very many times expressed, and which opinions I have no inclination to change, and shall not change. But I do not believe in any such necessity. I have studied the geography of New Mexico diligently, having read all that I could find in print, and inquired of many intelligent persons who have been in the country, traversed it, and become familiar with it.

New Mexico may be considered as divided into two parts: one lying on the east side of the Rio Grande, below the Paso del Norte—this is claimed by Texas; the other extends along the river, on both sides, from Paso del Norte to the forty-second degree of north latitude, or the boundary of Oregon. Of this part, also, that which lies on the eastern side of the river is claimed by Texas. The whole extent of both parts can hardly be less than one thousand miles, and by the windings of the river much more. The southern part is far less mountainous than the northern; it has, nevertheless, mountain peaks and mountain ridges. From San Antonio de Bexar, which is a hundred miles north of the Gulf of Mexico, and near the western line of the actual settlements in Texas, it is five hundred and seventy miles to Paso del Norte, by a track or road, recently explored, keeping east of the Rio del Norte, and south of the Guadalupe mountains; the general direction of which road is west by north. This whole country is of very little value. The mountains are barren, and a great portion of the more level country is a mere desert of rocks and sand. Sometimes prairies are met with, producing grass in more or less abundance; but the decisive and fatal characteristic of the country is the want of water. In traversing this region, travellers not unfrequently find themselves without water for twenty or thirty miles, and sometimes even for longer distances. I think an exploring expedition, which within the last year passed along this route, found no water for seventy miles. It may be truly said, that here is a country of six hundred miles in extent, which, in its general character, must be described as a barren desert. I agree, that in a considerable part of this desert, African slave labor is not necessarily excluded by the law of climate; the climate is mild enough; but, then, *all labor*, free or slave, all cultivation whatever, is excluded, for all time, by the sterility of the soil, throughout this vast arid region. There may be trifling exceptions here and there on the banks of some of the streams; but the general character, without doubt or question, is such as I have represented it. Major Gaines, a very intelligent gentleman, lately a member of Congress, and now Governor of Oregon, traversed a part of this country during the Mexican war, and this is his description of it:

"The country, from the Nueces to the valley of the Rio Grande, is poor, sterile, sandy and barren, with not a single tree of any size or value on our whole route. The only tree which we saw was the musquit tree, and very few of these. The musquit is a small tree, resembling an old and decayed peach tree. The whole country may be truly called a perfect waste, uninhabited and uninhabitable. There is not a drop of running water between the two rivers, except in the two small streams of San Salvador and Santa Gartrudus, and these only contain water in the rainy season. Neither of them had running water when we passed them. The chaparral commences within forty or fifty miles of the Rio Grande. This is poor, rocky, and sandy; covered with prickly pear, thistles, and almost every sticking thing, constituting a thick and perfectly impenetrable undergrowth. For any useful or agricultural purpose the country is not worth a *sous*.

"So far as we are able to form any opinion of this desert upon the other routes which had been travelled, its character, everywhere between the two rivers, is pretty much the same. We learned that the route pursued by General Taylor south of ours, was through a country similar to that through which we passed; as also was that travelled by General Wool from San Antonio to Presidio, on the Rio Grande. From what we both saw and heard, the whole command came to the conclusion which I have already expressed, that it was worth *nothing* I have no hesitation in saying, that I would not hazard the life of one valuable and useful man for every foot of land between San Patricio and the valley of the Rio Grande. The country is not now, and can never be, of the *slightest value*."

The most lamented and distinguished gentleman and officer, the late Colonel Hardin, of Illinois, entirely concurs with Major Gaines. Here is his account:

"*The whole country is miserably watered. Large districts have no water at all. The streams are small, and at great distances apart.* One day we marched, on the road from Monclova to Parras, *thirty-five miles without water*; a pretty severe day's march for infantry.

"Grass is very scarce; and, indeed, there is none at all in many regions for miles square. Its place is supplied with prickly pear and thorny bushes. There is not one acre in two hundred—more probably not one in five hundred—of all the land we have seen in Mexico, which can ever be cultivated; the greater part of it is the most desolate region I could ever have ima-

gined. The pure granite hills of New England are a paradise to it, for they are without the thorny briars and venomous reptiles which infest the barbed barrenness of Mexico. The good land and cultivated spots in Mexico are but dots on the map. Were it not that it takes so very little to support a Mexican, and that the land which is cultivated yields its produce with little labor, it would be surprising how its sparse population is sustained. All the towns we have visited, with, perhaps, the exception of Parras, are depopulating, as is also the whole country.'

The country higher up, that is, along the Rio del Norte, from Paso del Norte to Santa Fé and Taos, is different in this respect. Through this part of New Mexico the river runs between immense mountains, with strips or ribands of land along its banks, not always continuous, but which are cultivated with grains, but only by means of irrigation. Allow me, gentlemen, to lay before you the creditable, the exact, the authoritative description given by Mr. Smith, the delegate from New Mexico:

"New Mexico is an exceedingly mountainous country, Santa Fé itself being twice as high as the highest point of the Alleghanies, and nearly all the land capable of cultivation is of equal height, though some of the valleys have less altitude above the sea. The country is cold. Its general agricultural products are wheat and corn, and such vegetables as grow in the Northern States of this Union. It is entirely unsuited for slave labor. Labor is exceedingly abundant and cheap. It may be hired for three or four dollars per month, in quantity quite sufficient for carrying on all the agriculture of the Territory. There is no cultivation except by irrigation, and there is not a sufficiency of water to irrigate all the land.

"As to the existence, at present, of slavery in New Mexico, it is the general understanding that it has been altogether abolished by the laws of Mexico; but we have no established tribunals which have pronounced, as yet, what the law of the land in this respect is. It is universally considered, however, that the Territory is altogether a free Territory. I know of no persons in the country who are treated as slaves, except such as may be servants to gentlemen visiting or passing through the country. I may add that the strongest feeling against slavery universally prevails through the whole Territory, and I suppose it quite impossible to convey it there, and maintain it by any means whatever."

My speech was delivered on the 7th of March. Speaking of what I thought the impossibility of the existence of African slavery in New Mexico, I said: "I would not take pains uselessly to reaffirm an ordinance of nature, or to re-enact the will of God." Everybody knew that, by the "will of God," I meant that expression of the divine purpose in the work of creation which had given such a physical formation to the earth, in this region, as necessarily to exclude African slavery from it forever. Everybody knew I meant this, and meant nothing else. To represent me as speaking in any other sense was gross injustice. Yet a pamphlet has been put into circulation, in which it is said that my remark is "undertaking to settle by mountains and rivers, and not by the Ten Commandments, the question of human duty." "Cease to transcribe," it adds, "upon the statute book what our wisest and best men believed to be the will of God, in regard to our worldly affairs, and the passions which we think appropriate to devils will soon take possession of society." One hardly knows which most to contemn, the nonsense or the dishonesty of such commentaries on another's words. I know no passion more appropriate to devils than the passion for gross misrepresentation and libel. And others, from whom more fairness might have been expected, have not failed to represent me as arguing, or affording ground of argument, against human laws to enforce the moral laws of the Deity. Such persons knew my meaning very well. They chose to pervert and misrepresent it. That is all.

In classical times, there was a set of small, but rapacious critics, denominated *captatores verborum*, who snatched and caught at particular expressions; expended their strength on the *disjecta membra* of language; birds of rapine, who preyed on words and syllables, and gorged themselves with feeding on the garbage of phrases, chopped, dislocated, and torn asunder, by themselves, as flesh and limbs are by the claws of unclean birds. Such critics are rarely more distinguished for ability in discussion, than for that manly moral feeling which disdains to state an adversary's argument otherwise than fairly and truly, and as he meant to be understood.

But other gentlemen, of much more acquaintance with New Mexico, than I can pretend to, have expressed the same opinion as I have done, in respect to the natural causes which must forever exclude slavery from that country; and it has been thought remarkable that an intelligent field officer in the American army, in writing a private letter to a friend here, dated at Santa Fé, the capital of New Mexico, two days before my speech was delivered, that is, on the 5th of March, should have used this language:

"We have no papers later than the President's message. I fancy Congress is debating about slavery in New Mexico, where *slavery is prohibited by a stronger than all human laws—the law of climate, and production, and self-interest.* Not more than a hundredth part of New Mexico could ever be cultivated, if water were ever so plenty, such is the soil, topography, and rock of this land. But in the centre of a vast area, without large bodies of water, the rocky surface sending what little water falls upon it rapidly down to the ocean, under an atmosphere ever thirsty,

into which evaporation is marvellously rapid, not more than one part in two hundred and fifty can ever be improved."

And now, gentlemen, I have one other consideration to bring to your minds; and that is, that the slavery of the African race does not exist in New Mexico; that it is altogether abolished; that there is not a single African slave to be found among any of its mountains, or in any part of its vast plains. And the people of Mexico, to a man, are opposed to slavery; their State of society rejects it; the use of cheaper labor rejects it; the opinions, the sentiments, and feelings of the people, all reject it, as warmly and decidedly as it is rejected by the people of Maine.

And it appears to me just about as probable that African slavery will be introduced into New Mexico, and there established, as it is that the same slavery will be established on Mars' Hill, or the side of the White Mountains.

Among the maxims left us by Lord Bacon, one is, that when seditions or discontents arise in the State, the part of wisdom is, to remove, by all means possible, the causes. The surest way to prevent discontents, if the times will bear it, he says, is to take away the matter of them; for if there be fuel prepared, it is hard to tell whence the spark shall come that shall set it on fire. So counsels Lord Bacon; but with us there are other advisers. Although the dispute be obviously altogether unimportant, and although the times will well bear the taking away of the matter of it, *their* patriotic ardor still admonishes us to continue the contest—to fight it out; if the oyster be gone, still to make fierce battle for the shell; nor give up the warfare, till we obtain a joyful victory, or shall nobly fall.

Gentlemen, I will conclude this letter by a short reference to one other topic. A good deal of complaint has been manifested, as you know, on account of the opinions expressed in my speech respecting Texas, and the legal construction and effect of the resolutions by which she became annexed to the United States. Surprise and astonishment, and all the eloquence of capital letters and notes of admiration, have been summoned to mark the utterance of such new and startling sentiments. The truth is, however, that there is nothing new in the whole matter. The same view, substantially, of the resolutions of annexation had been taken, again and again, by myself and others.

Gentlemen, I voted against the treaty by which these Territories were ceded by Mexico to the United States; and in open Senate, in a speech made on the 23d of March, 1848, I referred to Texas and to the resolutions of annexation. The speech was published in the newspapers, and circulated in pamphlet form, and read by every body who chose to read it. In that speech you will find these words:

"Now, sir, I do not depend on theory. I ask you and I ask the Senate and the country to look at facts, to see where we were when we made the departure three years ago, and where we now are, and I shall leave it to imagination to conjecture where we shall be.

"We admitted Texas as one State for the present. But if you will refer to the resolutions providing for the annexation of Texas, you will find a provision that it shall be in the power of Congress hereafter to make *four* other new States out of Texan territory. Present and prospectively, therefore, *five* new States, sending *ten* Senators, may come into the Union out of Texas. Three years ago we did that. Now we propose to make two States; for, undoubtedly, if we take what the President recommends, New Mexico and California each will make a State; so that there will be *four* Senators. We shall have then, in this new territory, seven States, sending *fourteen* Senators to this chamber. Now, what will be the relation between the Senate and the people, or the States from which they come?"

You will see that here is the same opinion of the meaning of the Resolutions of Annexation, expressed nearly in the same words, as are contained in my speech of the 7th of March last. And this only two years ago. But nobody then expressed either surprise or astonishment. There was no call to arms, no invocation of the Genius of Liberty, to resist a false construction of an act of Congress; no stirring and rousing paragraphs in the newspapers; no patriotic appeals to the people, and no insane declarations, such as we now hear, that the Texan Resolutions are utterly void.

But, gentlemen, I will pursue no further a topic of some little interest to myself, but of no great importance to you, or the country. I leave it, with the single remark, that what was true, in respect to the construction of an act of Congress in 1848, must be true, in the same case, in 1850; and if an individual, on his own authority, may declare one act of Congress void, he may, with equal propriety, absolve himself from the obligations imposed on him by all other acts; and his oath binds him only to the observance of such laws as he himself approves. How far such a sentiment is fit to be acted upon by men, or to be instilled into the minds of youth, the country must judge.

But you, and the whole country, gentlemen, are interested most deeply, in knowing what is the prospect of a settlement of existing difficulties.

On this point, I am happy to say, that I can speak with hope, if not with confidence. I think

I see indications that the public judgment will, ere long, be brought to bear upon these troublesome and exciting questions, and that the voice of a majority of the people will hush other discordant voices. How soon this will happen, I cannot say; but I fully believe that the floods will yet subside, that the troubled waters will return within their banks, and the current of public affairs resume its accustomed and beneficial course.

I am, gentlemen, your obliged fellow-citizen and obedient servant,

DANIEL WEBSTER.

ROBERT H. GARDINER, esq., and others, *Gardiner, Maine.*

SPEECH

OF

MR. CASS, OF MICHIGAN,

ON

The motion of Mr. Benton for the indefinite postponement

OF THE

COMPROMISE BILL.

DELIVERED IN THE SENATE OF THE UNITED STATES, JUNE 14, 1850.

The Senate having under consideration the special order, being the bill to admit California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and northern boundaries, which bill Mr. BENTON had moved to postpone till the 4th day of March, 1851, Mr. CASS rose and said—

Mr. PRESIDENT: Before proceeding to discuss the subject more immediately under consideration, I beg leave to refer to some of the remarks made by the distinguished Senator from Missouri (Mr. BENTON) in his speech of yesterday. There was a sarcastic tone pervading it, that I was sorry to hear, not less on account of his own high reputation, which it could not increase, than on account of the dignity of the Senate, to which it could not add, and the harmony and tranquility of the country, which it could not promote. In grave questions like this, dividing and agitating the American people, and absorbing the attention of their Government, sarcastic remarks, whatever momentary gratification they bring with them, are sure to be followed by a corrective reaction. But I was particularly pained at the allusions to the distinguished chairman of the Committee, as I am confident was every man in the Senate, actor or auditor. The common sympathy of high talents, of long services, and of advanced years, should have spared this infliction—to us, not to him. He needs no sympathy, and fears no assaults.

The Senator from Missouri depicted in terms, not less forcible than true, the proud position of this country: its moral, political, and material blessings, and the prominence, which these give to it, in the family of nations. Mr. President, the Senator did not say a word upon this subject, in which I do not heartily concur. Never, in the history of the world, was there such a theatre for human actions, nor were these ever rewarded with higher rewards. But, sir, no one knows better than the honorable Senator, that seasons of adversity are not the only seasons of agitation. He believes the country is tranquil, and that excitement is the work of politicians, for their own selfish purposes; and he draws these conclusions from the prosperity, which every where meets the eye and gladdens the heart. Sir, great subjects of public right and policy are always before us, doing their work, be the condition of the country what it may—sectional and party questions, questions of to-day and to-morrow—of all time, indeed. Neither communities nor individuals will rest in a state of indifference. Agitation is the lot of man; and as we grow *fat*, to apply the Scripture word, we are but the more prone to forget our blessings, and Him, who bestows them. For my part, I read the signs of the times very differently. The cloud that was no bigger than a man's hand has already covered the whole atmosphere, and the portents are as alarming, as they are undeniable. But the Senator, if I understood him, said the American people were *frantic* for the compromise. That is is a strong word at any time, and still stronger when applied to our countrymen in a state of quiescence and indifference, such as that, which the Senator sees wherever he turns his looks. If they are *frantic* for the compromise, it is because they are sensible of the peril in which the country is placed, and feel an anxious desire to escape from it.

The Senator objects to the name of the Committee—objects to its being called a Committee of Compromise. Sir, I neither partake of this feeling, nor do I join in the objection. Names are said to be things; and so they are in countries where prejudices have sway. But I trust the American people will not have less regard for the labors of the Committee, because the Senator from Missouri denounces its name. I think the word designates just what ought to be the great characteristic of such a committee. As to compromising questions of expediency, that is one thing, and a very proper thing; but as to compromising great questions of principle, that is another and a totally different thing. The various sections of our country are involved in a great controversy, and I am desirous to see each abate in its demands, that all may meet on common ground. Why, sir, life is a life of compromise, from the cradle to the grave. Our very entrance into society begins with it, a political compromise, by which we surrender a portion of our rights, that we may enjoy the residue. He, who stands rigidly upon his own position, will find that others will stand as rigidly upon theirs, and that if he is not disposed to give, he will not be allowed to take.

TOWERS, PRINT.

The Senator from Missouri says, that the delay, that has taken place in the admission of California, has been owing to the Compromise Committee and its measures. That Committee reported about a month since, and were in session about two weeks. And who has a right to charge this whole delay to them? The subject has been before the House of Representatives during some four months, and has not yet been brought to a final vote, nor, indeed, to any vote; and that, notwithstanding there is an efficient process in the House for the termination of debates, which is not yet adopted in the Senate.

An attempt to force California through this body, as an isolated measure would have probably arrayed against it every Southern vote but one; and such an opposition would have created obstacles and delay, upon the issue of which no man has a right to pronounce with any certainty.

The Senator says, that if the Senator from Kentucky had remained by his side, California would have been admitted long since. Perhaps so, Mr. President; but there are many here, who will contest that point. I estimate at a high value the influence of these distinguished Senators; but perhaps not so highly as the Senator from Missouri, when he attributes such a result to their joint action. Though from their shoulders and upwards, like the first King of Israel, they may be taller than any of us, still I trust they do not so overshadow us, as, like the oak, to suffer only stunted shrubs to grow in the shadow of their tall foliage. I cheerfully concede, that any measure, zealously supported by both these gentlemen, is much more likely to pass the Senate, than if left without such powerful aid. Still there are fifty-eight other members, with the same right to speak, and most of us with an equal disposition to exercise that right. If the two Senators had placed themselves side by side, with a determination to force the bill, whatever objections might appear, there would have been a mutiny in the camp. *To your tents, O Israel!* would have been the cry, and half the forces would have taken a position of their own, and fought under another standard. In fact, the *leaders* might have been left without followers, and California sacrificed in a contest for power and influence.

Notwithstanding the views expressed by the Senator from Missouri, I believe there is no need of recalling to any one, here or elsewhere, the excitement in the public mind, and the political condition, in which the country has been placed for some time, by the questions which divide and agitate us. The evidence of all this comes to us from every quarter; and, indeed, it is with us and around us, as the scenes we so often witness in both Houses of Congress, and the little progress we make in the business of legislation, sufficiently demonstrate. The subject itself is the absorbing topic of the day; and whatever evils it brings with it—and they are many—still it brings with it one consolation, and that in the proof it furnishes of the strength of our institutions, and of the deep-rooted attachment, which exists for them in the hearts of the American people. There is not another country on the face of the globe, which could have passed through such a trial, and thus far, without having the very foundation of its political system broken up, and the edifice scattered to the four winds of heaven. But we all feel and know, that this state of things cannot much longer continue, without putting in peril the dearest interests of the country. Every thing warns us that we have reached one of those epochs in the progress of a people, to which the historian looks back, when seeking the causes of their prosperity or adversity, and deducing lessons of wisdom from human experience. What we want is, the restoration of confidence and harmony between the different portions of our country—the adjustment of this great sectional dispute, that the present should not be overshadowed by the future, and men's hearts and thoughts occupied by the overwhelming fear, that the seeds of dissolution are already sown, to ripen speedily into an abundant harvest of calamity for this great Confederation. So long as any of the questions involved in this subject are left open, so long will the agitation and excitement continue, and with them, the danger to our permanent tranquillity. Every consideration of prudence and patriotism requires that we should come to the vote with a determination to adjust all this matter speedily, satisfactorily, finally.

Now, sir, we have a plan before us which, if carried out, promises to do this. There are objections to it, of course, and so there would be to any proposition, even if made by an angel from heaven. Knowing how prone we all are, if we cannot have our own way, to have no way at all, I was prepared to expect opposition to the course recommended by the Committee; but I must confess that, forewarned as I was, I was not prepared for the opposition it encountered when first presented, and still less for the extreme opinions, which marked the brief discussion. Some three or four years since, during the Mexican war, a proposition was made in the House of Representatives to pass what is now historically known as the Wilmot proviso, by which slavery was to be interdicted by the action of the General Government in all the acquisitions we might make from Mexico. The measure then failed; but the effort was renewed, and has been continued without relaxation to this time. The South, justly offended at such an attempt to exercise a power not found in the Constitution, and to interfere with the local concerns of a distant people, remonstrated against the effort, and exhibited a determination to resist it at all hazards. They said: *You have no right to legislate upon the subject of slavery. It is not in the bond which binds us together. If you do so, the bond is broken. Let it alone. It belongs to the people to regulate in their own way.* It will not be denied, that this is what the South then demanded, and all it demanded of the General Government.

Well, this view prevailed. The interferenee of the Government was prevented; and since the origin of this controversy, not a single legislative measure has been adopted upon the subject, in relation to these new acquisitions. So far the question has been left to the people to decide, and they have decided in California, that slavery shall not be admitted there. The committee, true to this principle of non-intervention, have reported bills for the admission of California, and also

for the establishment of governments over the residue of the Territory, with no action by Congress on the subject of slavery, leaving the matter to be settled by the people themselves.

And yet we have seen this arrangement assailed with a zeal amounting almost to violence, and the proposition denounced *as a sacrifice of the South to the North!* And, on the other hand, we have heard a denunciation as unequivocal from the North, pronounced by honorable Senators, who represent the opinions and speak the sentiments of a large portion of the community. They, too, condemn the whole arrangement, but condemn it *as a sacrifice of the North to the South!*

When this controversy began, the exclusion of slavery from these regions was the avowed object of those who commenced it. Now that exclusion has been obtained in California by the act of the people, and has been placed beyond question in the Territories, as shown by the Senators from Kentucky and Massachusetts, (Mr. CLAY and Mr WEBSTER,) and so clearly that I believe few in or out of Congress deny it—by the operation of causes independent of the action of the Government; and thus no section has acquired a "triumph"—to use a *patriotic* phrase to which I shall hereafter refer—over another. But this is not enough. The interdict, already pronounced by circumstances in the country itself, must be repeated and renewed by Congressional interposition, with no other practical result, that I can see, but to offend the pride of the South, and to assume an obnoxious power unknown to the Constitution. As I do not partake of this feeling, I shall not partake of any measure, which ministers to it.

Well, sir, if I had had doubts of the wisdom of the recommendation of the committee before these disclosures, those doubts would have given way to convictions, as soon as this strange union of views was presented to the Senate. When extreme opinions unite in opposition to a measure, men of moderation may feel assured that it cannot be a very unjust one. Gentlemen at antipodes till now become associated in action, because the plan of adjustment grants too much and too little, as each contend; though they are again as wide asunder as the poles, when they come to designate the section of country, which gains or loses by the alleged partial course of the Committee. The honorable Senator from Alabama (Mr. CLEMENS) seems to have been so struck with this unexpected combination, when first disclosed, that he referred in illustration of it to the well known remark of Burke, made upon an occasion when circumstances brought adverse politicians to act together in England, "that politics, like misery, make strange bed-fellows."

Mr. President, it would be vain to look back upon the history of the world, and endeavor to seek any country, whose condition resembles our own. Since man first went forth from the garden of Eden, there has been nothing like it. We have a fierce internal contest, engendering the worst feeling, and threatening the worst consequences. It is here and everywhere; and if it goes on, it will go on to its natural consummation—to the destruction of a political system, which has conferred a greater measure of happiness than any other country ever enjoyed, and which is now an example and an encouragement for every people, striving for the blessings of free government. And when it is proposed to terminate this sectional controversy by a reasonable and practicable plan, the proposition is repelled with as much violence as though the measure submitted, actually sacrificed human liberty and human rights throughout the world. One party is determined that slavery shall be prohibited by a law of doubtful obligation, and obnoxious to one half of the Confederacy, in a region where it does not exist, and can never go, and where legislation even, according to a distinguished Southern statesman, could not establish it. And the quantity of zeal and gravity displayed in advocating this measure, and by many a man through the country, who knows it to be as useless as it is dangerous, is not among the least of the extraordinary features which mark this unhappy dispute.

Another party is determined, that California shall not be admitted, unless bounded by the parallel of 36° 30′. We have heard many objections, and I suppose we shall hear many more, to the proceedings of the people in the establishment of a government, which we ourselves refused to organize there. Some of these are mathematical, depending upon some problem, found I know not where, measuring human rights by numbers, and which would sweep from existence all governments, which have not the standard population. What that is has not been authoritatively stated; but it must be more than 100,000, because California possessed that number, when she provided for social and legal order. There are also other objections, constitutional and political, some depending on the transient nature of the population, as though we had the right to refuse admittance to a State because we have no security, that its inhabitants will always live there, giving up the privilege of locomotion—at any rate of emigration—and some depending on the fact, that the General Government has large landed estates in California, as though nobody else had property there, real or personal—claims even, under Mexican or Spanish grants—and as though Government were not quite as necessary for the people, as if the United States did not own a foot of land in the country. Human rights are worth protection, even if the people are poor, and where the gold mines belong to a government on the other side of the continent. But, sir, it appears that these are all objections of expediency, which may be yielded; not of principle, which admits of no compromise: because, by the establishment of the southern boundary of California at 36° 30′, all opposition to the admission of that State would be obviated, and she would enter the Confederacy with the concurrence of all parties. That will not be disputed. The practical difficulty, therefore, we have to deal with, is a geographical one; not whether California shall come in by the process she has adopted—a process, so far as regards the previous sanction of Congress, resembling that by which Vermont, Kentucky, Tennessee, Maine, Arkansas, Michigan, Florida, and Iowa were admitted into the Union—but whether her boundaries shall remain, as she has fixed them. And what bearing has this question upon the great topic, which seems to bring every thing within its vortex? Why, this, and

this alone: that if the country south of 36° 30′ is excluded from California, the people there may admit slavery, though they have already excluded it, and though the considerations, geographical and political, which led to that exclusion, are in as full force as ever.

Now, sir, I cannot weigh the advantage, on the one hand, of passing the Wilmot proviso, with a view to exclude slavery from New Mexico, nor, on the other hand, the chance of introducing it, under these circumstances, upon a narrow coast of the Pacific ocean, shut in by desert and mountain, and with little probability of possessing a population sufficient for a State, against the peace—the existence, in fact—of this great republican empire.

But, sir, whatever may be the result of this effort of the Committee, the honorable chairman is entitled to the gratitude of his country, for his patriotic and persevering labor in this good work. He has done many a deed before in her service, which will carry down his name with honor to posterity as a statesman, an orator, and a patriot. But never has he devoted himself to a higher object, nor brought purer motives, nor more zeal or power to its support. I have observed his course with warmer feelings than I choose to express, and, come what may, he at least will be free from reproach.

The success or failure of this plan depends very much upon the effect it may produce upon public opinion. That will probably decide its fate. We cannot, of course, expect any thing like unanimity. In all political convulsions, there are those who look on with selfish objects, and calculate coolly their own advantage from the troubles of the country. While the fire remains, the conflagration is liable to break out, and to extend indefinitely. There never will be wanting persons enough to supply the fuel and to fan the flame. We all know that this is the very state of things, which renders our condition the more alarming. We all know there is many a man in the country, who would regret the restoration of its tranquility, even if that were attained by the very measures he now loudly advocates. In such an event, his occupation would be gone. He would become bankrupt in his political capital; and with the departure of the public agitation would depart the hopes, which that agitation alone maintains. The more reason is there for a union of all who realize the danger and are desirous of averting it. It will be of little use to carry an isolated measure, leaving the causes of difference to go on with their work. The admission of California is demanded by a strong public feeling, and is essential to the public tranquility; and so is the establishment of Territorial Governments. The adjustment of one of these subjects, leaving the other open, would leave open one of the very questions that divide us, and which have brought us into our present condition. Every one knows that while California is kept out, the contest will go on, and the voice of dissatisfaction will be heard from one end of the country to the other. And, so long as the residue of the territory acquired from Mexico is without a government, the Wilmot proviso will be urged and resisted, and with the same zeal and violence, which have marked the history of that useless and unhappy effort. These two great measures—the admission of California and the establishment of Territorial Governments—are therefore equally necessary to any successful action. And I agree with the distinguished Senator from Kentucky, that there is a propriety in their simultaneous consideration, because they provide political institutions for acquisitions, embracing the same region of country, secured to us by the same treaty, and to which we have assumed the same obligations. But besides this fitness, arising out of these relations, there are other considerations still more imperative, which dictate the union of these measures. In the first place, sir, it is urged with great earnestness by many of the Southern Senators, and I believe demanded by the public opinion of the South. I am free to confess, that it would require some very imperative reason to induce me to oppose the measure under these circumstances. Such a voice in this country should always be heard with respect; and especially at this time, when there are so many motives for a spirit of conciliation, and when a restoration of harmony between the great sections of our republic is so much desired by every true American.

If there were no other reason but this in favor of joint legislation, this would be sufficient for me. But there are others, and very decisive ones. Our great object, as I have said, is the final termination of this agitation; and any measure will be a mere palliative—perhaps, indeed, something worse, by the irritation it may produce—which does not settle the whole controversy. Now, sir, it will hardly be denied, here or elsewhere, that by the union of these measures, we shall be much more likely to provide Territorial Governments, than if each subject were considered separately. I take it for granted that California will be admitted. There is such a decided majority in favor of it, that it cannot be prevented, except by some process of delay arising out of the machinery of legislation, to which allusion has more than once been made, but which I should be very sorry to see employed. The two measures will aid each other; and in my opinion their union will render much more probable the passage of both; and this, too, may be effected in a shorter time than would otherwise be necessary. Objections, that would be urged to the admission of California, if that measure were presented alone, may be relinquished, when it is associated with a plan for the government of the Territories.

Still, sir, we are asked, and with much emphasis, by the Senator from Missouri, why are these measures joined together? I shall answer, sir, and I trust as emphatically. I have already said, that the attempt to force the admission of California through the Senate, as an isolated measure, would array against it every Southern Senator, but one. The proposition would immediately assume a sectional character; and the very case would be brought into our councils, against which we were warned with so much patriotism and wisdom by the Father of his Country. North and South would be placed in antagonistic positions, upon one of the gravest questions known to us—an addition to the sovereign States of this Union. How long the contest would continue, and what scenes of

violence it might produce, no one can tell. But all can tell, that irritation and alienation would be introduced into our political family, and would lay the foundation of lasting dissensions. And are not these considerations a full compensation for the union of two measures, both equally within our power, and both equally called for by the condition in which we are placed?

Now, sir, what are the objections to this course? I will try to deal fairly with them, so far as I understand them.

1. It is said it will delay the admission of California.

Even if this were so, I suppose a few days sooner or later would be of little importance, compared with the great interest pressing upon us. I am sure the citizens of California, who have given us such acceptable proofs of their attachment to the Union, would approve, rather than condemn, a delay like that, bringing with it harmony and good feeling. But, sir, even this sacrifice is not required; for I am satisfied, as I have already said, that the union of these measures will expedite action upon each, by removing objections, which would otherwise present themselves, and which could not fail to increase the difficulties that surround us.

2. That it may defeat the admission of California.

How it can produce that result, I am utterly unable to conjecture. The question of admission, so far as the Senate is concerned, is always within the control of a majority of this body. That majority, as I have already said, and as no one denies, is clearly in favor of that measure. If it is put to hazard by this union, and by unexpected opposition, the remedy is in the power of the majority, and would be applied without hesitation, when found necessary, by separating the objects, and passing the California bill by itself. I am as strong as any one in the conviction, that California should be admitted, and as determined, so far as my voice and vote will go, that the admission shall take place. And I have not a doubt, but I am best promoting this object by advocating the proposed union.

3. But, besides these objections on the ground of delay and danger, there is another, argued with a degree of zeal out of all proportion, it appears to me, to its intrinsic importance; and that is, that the dignity of California would be affected by this association, and therefore we should not sanction it.

Really, Mr. President, I find it difficult to treat this topic as seriously, as my respect for the Senators, who urge it, would prompt me. The dignity of California affected, because another matter, kindred in its object, is provided for in the same bill! I understand many kinds of dignity, some true and some false—the dignity for instance, of virtue and of moral worth. I can even understand many of the dignified playthings, which belong to the old school of European society; but the dignity of juxtaposition—not of person, but of name—the want of respect, which would be exhibited towards the people of California, by providing for their admission into the Union, at the same time that provision is made for the government of other regions, which belong to us by the same tenure, is beyond my powers of comprehension. If, indeed, this mere form of proceeding rendered the measure of admission conditional, and if California were to be kept out, until something else foreign to her interests were done, I should consider the effort injudicious—unjust, indeed—and should zealously oppose it. But, after all, what is this indignity? It is not that these two subjects are discussed in the same room, by the same persons, at the same time, indeed: all this does not make the point of objection, for it belongs, in effect, to our political organization. It must be the parchment, or the pens, or the ink, or the paper; and I do not believe that a single citizen of California will ever consider his State pride injured, because these harmless instruments of recording the legislative will of Congress are used, as well to provide governments for others, as to recognise his own. But it is said that no such measure has ever been adopted in the whole history of our legislation. This is a mistake, sir, which is easily shown. Iowa and Florida were admitted by the same act of Congress. Here was a union of subjects totally distinct in their origin and their interests. So far, therefore, as dignity depends on being alone, and on having no other matters embraced in the process of admission, this measure was equally undignified to both. If it depends not on that, but on the nature or gravity of the measure, I think that the government of extensive regions is a subject from whose contact of position no State, admitted or to be admitted, nor the republic itself, need shrink as from pollution. But, sir, we have upon our statute book an example of the very proceeding, it is now proposed to adopt. The act of Congress authorizing the people of Ohio to form a constitution and State Government, and under which they were admitted into the Union, provided for the government of the present State of Michigan, till then united with Ohio, by attaching it to the Territory of Indiana. Here is the same power of junction assumed by the present bill. The third section of that act regulates the disposition of Michigan, and exercised the same power of government for a Territory, which is exercised here. The dignity of Ohio was, I believe, no way affected by this measure, for I was then a citizen of that State; nor did I ever hear the subject alluded to in censure or in commendation. This indignity of juxtaposition is a discovery of these later days.

But, sir, the slightest inspection of the statute book, the most cursory reference to the history of our legislation, will show that this matter of juxtaposition has never exerted any influence whatever upon the action of Congress. I am speaking not of incongruity, but of indignity. Look at your appropriation bills, and see what a strange mixture of subjects, great and small, they contain. *Lamp oil, water closets, top dressing for plants*, and an infinite variety of similar matters, are found side by side, not merely with other objects of appropriation, but with permanent legislative provisions, affecting the operations of the government and the gravest interests of the country. The United States, as a Government, finds itself in strange company, agreeably to this new doctrine of legislative etiquette. I must be allowed to repeat, that the zeal, the warmth, the animosity almost,

with which the union of these measures is assailed, appears to me out of all just proportion to the importance of the subject itself.

I have been an observer, and not a careless one, of public men and measures, for more than half a century, and I cannot now recall a single instance in our legislative annals, where a question so insignificant in itself--I mean this question of dignity—has been made to assume an aspect so grave. Really, to hear all that is said, and as it is said, a spectator, ignorant of us and of our fierce contests--with the tongue, would naturally suppose, that the Government itself, the very institutions of the republic, indeed, were hanging upon the issue of this discussion, and that the *talking* controversy, in which we are engaged, was one of the conflicts of opinion and of action, which settle the character and fate of the country. But a little experience of our Congressional tactics would reassure him, and he would learn, that there are other standards, besides the tone and temper of our debates, by which the real gravity of a measure should be judged. We had a grave discussion at the commencement of the Government about the title of the new functionaries--Highness, Right Honorable, &c.--and about the three bows the two members bearing a message from the House should make, and the three places where these should be made, and much more of that sort embodied and recommended in a formal report; and a few years since we listened to some profound debates here, proving that, as we sent a minister to Mexico, and not a commissioner, such conduct was too flagrant to be defended, and that the Mexican Government was right in all it did, or intended to do. Now, sir, between these discussions of domestic etiquette, about titles and bows, and of foreign etiquette, about sending one grade of diplomatic agents instead of another, a long period intervened, during which there were many legislative agitations; but I have taxed my memory to no purpose, endeavoring to recall one where the cause and the effect were more disproportioned to each other than in the present case.

And this want of just proportion is not confined to this step in our progress. It extends also to the result. I was forcibly struck with this tendency to great premises and small conclusions in perusing an editorial article in a prominent Boston paper, (the Atlas,) which some one sent me for my edification, I suppose, headed "the North," and in which the distinguished Senator from Massachusetts, who is devoting, with such zeal and patriotism, his great talents to the restoration of public harmony, and other Senators associated with him in political opinions, and associated also in this noble work, are arraigned with as much intemperance of feeling, as lack of judgment and patriotism for their efforts in this cause. If it became me to congratulate them upon any thing connected with their public conduct, I would congratulate them upon being thus arraigned for such a work.

In that article—a kind of programme, or rather manifesto, of Northern injuries and Northern intentions—we are told that "what the North ask is their right—nothing more, nothing less;" and "they stand on the defensive to maintain those rights," &c., "and it is for this crime that the North are held up as the disturbers of the public peace." We are gravely informed, that the cause of complaint is, among other things, that "it will not bow its neck in the dust for the Footes, and Masons, and Clays to tread upon." "They would break the Northern spirit, if they could," &c. "They reckon this time without a host. THE NORTH WILL STAND FIRM," &c., with more of the same sort. The small capitals, indicative of capital firmness, make part—an essential one, too, I suppose—of the paragraph. And then comes a sentiment in which we can all concur: "No there is but one way in which the country can have permanent internal rest; and that is, by doing justice to the North and to the South." And what is that *way*, seeking *justice* through firmness, which is thus to restore tranquility to a distracted country? It "is to follow in good faith the course marked out by our patriotic President in his California message; that is, to do nothing in the great question of Territorial Governments, but to leave our Congressional duties unfulfilled, and things to take their own course, without even an attempt to pass the Wilmot proviso! I do not call in question the motive of the President, however much I may call in question the wisdom of the recommendation. That motive was to prevent the agitation of the country; but the writer of this manifesto, with "its firm and manly tone of remonstrance," eschews "soft words in praise of peace and brotherly love," and proclaims and announces agitation, and promises triumph—by sitting still and doing nothing; and then asks the country to believe—that all this is a "duty" "performed with ability and in defiance of great names," and that "they look to the cause and their consciences for their reward"

Mr. President, in my day I have seen no such bold political experiment upon the credulity of the country. The *firmness* of sitting still; the prodigious "triumph" to be achieved by doing nothing; the refusal of government to a remote and unorganized colony, is the *performance of the great duty of the North*. What a falling off is here! And yet the phrases are as grandiloquent as though the subject concerned all the great interests of mankind, and are set forth as gravely as if the writer were in earnest, and thought every body else would believe him so. I refer to this article, because I understand the paper to be the organ of an active political section, and because the article itself is evidently intended to indicate their course, and to justify it.

Mr. President, I have been favored with another Boston paper—the Liberator—containing one of the most extraordinary rhapsodies on this general subject, which it has ever been my fortune not to read—I claim to have done no such penance, but to look at it, to cast my eyes over it—with a view to catch its spirit and some of its figures of rhetoric, by a cursory glance. As the author uses my name and subscribes his own, I violate none of the courtesies of the occasion, or of my position, by thus referring to it. and by saying that the world owes this production to a representative in Congress from Massachusetts, (Mr. MANN.) His principal aim is at higher game than myself—

at one of the Senators from his own State, (Mr. WEBSTER.) That distinguished gentleman needs no defence in such a controversy, least of all is it necessary that any one should step between him and such an assailant. The allusion to me is rather an episode in the play, than any needful portion of it. And though I have not to reproach myself with any *favorable* notice, and therefore have nothing to complain of, still I refer to the work, because it has been widely disseminated, and its mischievous sentiments—I might justly use a harsher epithet—place it among the signs of the times, expressing, as there is reason to fear it does, the views of many active politicians.

The writer is certainly a brave *man*—I am satisfied of that; for he distinctly announces it, where he speaks of his willingness to "feel an assassin's poinard in his breast," rather than "see the air-drawn dagger of a guilty imagination;" which, I suppose, when translated into plain English, means that he would suffer death, rather than the inhabitants of New Mexico should enjoy all the rights of self-government. Martyrdom is cheaper now than in the olden time. It is gained by words, not by fire and faggots. But I am still more satisfied of his courage, because he makes an assertion, which no one but a brave man would venture upon. After referring to my Nicholson letter, he says "that Gen. Cass never took the ground that slavery could not exist in the Territortes," &c., and much of the reproach he attempts to east upon the distinguished Senator from Massachusetts is founded upon his opinion, as true as it is forcibly stated, that the physical circumstances of the country will prevent the introduction of slavery there. Now, sir, the writer of this article knew that I had taken the very same position in my Nicholson letter, where I remarked:

"I say this in the event of the extension of slavery over any new acquisitions. But can it go there? This may well be doubted. All the descriptions which reach us, of the condition of California and New Mexico, to the acquisition of which our efforts seem at present to be directed, unite in representing those countries as agricultural regions, similar in their products to our Middle States, and generally unfit for the production of the great staples, which can alone render slave labor valuable. If we are not grossly deceived—and it is difficult to conceive how we can be—the inhabitants of those regions, whether they depend upon their flocks or their herds, cannot be slaveholders. Involuntary labor, requiring the investment of large capital, can only be profitable when employed in the production of a few favored articles, confined by Nature to special districts, and paying larger returns, than the usual agricultural products, spread over more considerable portions of the earth.

"The question, it will be therefore seen, on examination, does not regard the exclusion of slavery from a region where it now exists, but a prohibition against its introduction, where it does not exist, and where, from the feelings of the inhabitants, and the laws of Nature, 'it is morally impossible,' as Mr. Buchanan says, *that it can ever re-establish itself*."

And am I not right in saying, that whatever other qualities he may want, a man, with my letter before him, who could say *that I never took the ground that slavery could not exist in the new Territories*, does not want moral courage?

But this writer is not only a brave man; he is also a philanthropic one. His article abounds with declarations upon that subject, made where this kind of philanthropy costs nothing personally but studied phrases, and where he is safely removed from the difficulties and dangers of the question. But his philanthropy is tempered not with prudence merely, but with thrift. He has more solid arguments than charity. He tells "our merchants and manufacturers" that "they jeopard their pecuniary interests;" that "if New Mexico is slave it will also be free trade, *which will be most disastrous to our Northern business men*."

But we have lessons of patriotism as well as of charity and of profit in this didactic essay. The writer is patriotic; for if "his hopes fail, the country is doomed to run its unmolested career of conquest, of despotism, and of infamy;" and he announces with evident gratification, that "their whole Atlantic seaboard (that of the South) is open to attack and powerless for defence; and the Mississippi river may be as easily divided physically, as politically, into independent portions."

He is cool, too, while hot—calm, while excited; for he assures us that *his words are as cool as the wires, while his feelings are like the lightning*, &c.

He is "without asperity," though he charges a "portion" of the members of the House of Representatives, with whom he was in daily intercourse, with "confederating with a majority of the Senate in this unjustifiable machination." "The flagitiousness of this proceeding is difficult to comprehend and impossible to describe," together with many more choice flowers of rhetoric, culled from the same garden. *He says he speaks respectfully of those from whom he dissents*, while, at the same time, he attributes the motives of those, who differ from him, to what he says is *technically* "*a bid;*" committing the too common error of measuring all other men by his own standard, after making that standard a mercenary one. It is evident he cannot conceive how a public man can act without "a bid." And with a modesty and charity, worthy of the school of dialectics, of which I understand he is a distinguished professor, he assigns to me the pre-eminence of making a greater "sacrifice of consistency, honor, and truth" than any other public man, because I "was the accepted candidate of the Democracy for the office of President." It has been my fortune to receive some complimentary notices during my life; but rarely have I received a more acceptable one, than the honor of such a censure from such a MAN. But he is not partial in his favors. He speaks of the "waggery" of the distinguished Senator from Kentucky, and of his "practical joke" in the effort to put a stop to the agitation of his country, and of "the roar of laughter," which, "like a *feu de joie*, would run down the course of ages," were it not for its horrible consequences. Shade of Quintilian! what a figure for a disciple, who invokes thy name and appeals to thy authority!

His susceptibility to temperature is the great physiological curiosity of the day; for he declares, with all due gravity, that any person who could *even read the bill* reported by the Senator from Virginia (Mr. MASON) for the recapture of fugitive slaves, "without having his blood boil in his veins, has powers of refrigeration that would cool the tropics."

This is the true "Ercles vein," and is perhaps the richest specimen of that peculiar style of literature which has appeared in the world since the time of the renowned Professor NICHOLAS BOTTOM, Esq.

He has a commendable appreciation of his position and his influence; for he considers himself, with others, as standing "in the forum of the world, and under the eye of posterity." And with a want of reverence, irreconcilable with some of his professions, he says that a majority of the House of Representatives, on one accasion, "wrestled like Jacob with the Angel of God." The Holy Scriptures have a higher object, than to be introduced into the party contests of the day, and a lecturer upon education especially should not desecrate them to such a purpose as this. Whether his reference to this mysterious passage of the Pentateuch is intended rhetorically or logically, as an illustration or an argument, I do not know; but, be it one or the other, it equally fails, as the writer does not tell us whether it is the conduct of the angel or the patriarch he condemns, and the story is therefore left without application. Certainly it could not have been merely to illustrate the course of a night's session of the House of Representatives, that a man of taste and piety would resort to the Bible. Its contests and confusion need no passages of Scripture history for their appreciation.

And this tissue of bad taste, bad morality, and bad logic, is printed by *charitable* subscriptions, and scattered through the land, to inflame the feelings of one section of the country against the other, and to hasten on this fearful agitation, till the arbitrament of reason yields to that of force, and the fate of our country is committed to the chance of untoward events. The characteristic disingeniousness of the writer is nothing more remarkable than in his treatement of the views of the distinguished Senator from Massachusetts in relation to the little probability of the extension of slavery to New Mexico, because the climate of that country is unfavorable to those productions, which can alone render slave labor valuable—a sound and practical opinion, the truth of which experience is every day demonstrating.

Well, sir, the writer of the leiter in reviewing this opinion, chooses to talk about "drawing moral conclusions from physical premises"—of "defining the law of the spirit by geographical phenomena"—of ascertaining "whether a people will obey the laws of Christ, and do to others as they would be done by, looking at the thermometer"—of "undertaking to settle, by mountains and rivers, and not by the Ten Commandments, a great question of humanity;" together with much more flippancy of the same kind, neglecting to read or heed the ninth of those commandments he invokes, and which says to every MAN, "Thou shalt not bear false witness against thy neighbor." It is not by a direct charge alone that this prohibition in the decalouge can be disobeyed. That may be done as effectually by insinuation as by assertion. This the writer understands and practices; for no one knows better that the honorable Senator from Massachusetts never even dreamed of measuring moral duties by the accidents of soil and climate; but that he did measure the probability of the extension of slavery by its profit or loss, which of course must be regulated by the value of its products. And this gross misrepresentation of the opinions of a colleague in the National Legislatures is accompanied with professions of *admiration of his powers, gratitude for his past services, and of his own diffidence in dissenting from his views.* Can insincerity go further?

But, after all, sir, it may turn out, that this very letter may place its author among the benefactors of the country. It will cartainly do so, if it was the occasion, to which we owe that beautiful and powerful exposition of some of the principles of the prevailing controversy contained in the Newburyport letter—one of the most masterly appeals to the reason and patriotism of the American people, that has appeared in my time. Had the distinguished Senator from Massachusetts (Mr. WEBSTER) no other claim but that to the respect of his countrymen, that would be enough for present and future distinction.

The Senate will bear me witness, that it is very seldom I enter upon such a task as this. It suits neither my taste nor my habits. There are things it is difficult to touch, and at the same time escape pollution. But this appeal to the passions of the community is so pre-eminently mischievous and reckless in its professions, and so regardless of legitimate or patriotic results in its performance, that it has won for its author a distinction, or rather a notoriety, to which few will aspire, and which fewer still could attain.

But, sir, to return to the objections to the union of these measures.

It is not to be disputed that, if convenience permitted, it would be better, in the usual course of legislation, that each question should be finally settled by itself. But that is impossible; and the union of subjects is therefore a mere matter of legislative expediency. As to incongruity, about which we have heard so much, certainly that does not depend upon any want of natural connexion between the objects themselves; for an appropriation for an improvement at one end of the Union ought to derive no strength from an object of a similar kind at another. All this is a mere matter of expediency, appealing to the discretion of the body called to act upon the subject. As to the English precedents, founded on the Constitution of Parliament, and the various questions—some of form and some of substance, some of etiquette and some of power--arising between the hereditary and the elective branches of the Legislature, and incident to a political system, depending on tradition, and not on the popular will, and to be found in commentaries, and not in a written constitution, I remove them all from my path, without remark or inquiry. We are just as much bound by their ceremonial observances, as we are by their forms of proceeding, and just as much bound by those of France or Spain as by those of England. So far as regards the experience of other legislative bodies, I am willing it should be referred to by any gentleman who desires it, and who thinks it may be useful in fortifying any position he may take. But I repudiate its obligation, come whence it may.

I have already adverted to similar modes of proceeding in the history of our own legislation. But, sir, if this were not so--if no procedure in the course of our Government could be found bearing upon such a question as this, either directly or indirectly—what then? Are we so tied down, not

by principles, but by mere forms in our legislative proceedings, that we must always do what has been done, and as it has been done, and nothing else? As practical men, when a grave question arises, involving the most important consequence, instead of following the course indicated by passing events, are we to pore over the statute book, and try to find some analogous case, not settling a principle, but touching a form, and then adapt our measures, not to existing circumstances, but to bygone transactions surrendering our own judgment to the mere authority of precedent? For myself, sir, I disclaim such a doctrine; and, as far as my vote will go, I shall look at things as they are, and judge for myself, what the true interest of the country demands. To those, who believe that California should be admitted, and that Congress has power to establish Territorial Governments, and that constitutional powers should be exercised, when the occasion arises, for which they are provided, the union of these measures can present no practical difficulty -and to such I appeal; and among these is the Senator from Missouri, who tells us, that California and New Mexico are equally suffering for want of our action.

As to my own views respecting the constitutional power of Congress to establish Territorial Governments, I have once and again explained them to the Senate, and I shall not now renew the topic. I find this power only in the necessity of the case, as justified by Mr. Madison, in respect to the old confederation, and in the "inevitable consequence" of Judge Marshall, when deducing the necessity of government from the right of acquisition. When yielded to, it is yielded to from the urgency of the occasion, andupon the responsibility to his constituents of him, who thus finds himself in this situation. To those who experience no difficulty as to the power of Congress, it appears to me there must be other reasons than those connected with the objects themselves, which create the embarrassment. And what are they, and how far do they involve the neglect of a constitutional duty? As to the establishment of some kind of government in the Territories, no man can call in question its necessity; and it must originate, either in the legislation of Congress, or in the voluntary act of the people themselves. If Congress neglect its duty, the people must depend upon themselves, resorting to first principles for their justification. But this is a state of things, which no wise Government should promote by its own inaction. It puts to hazard the whole frame of society. The validity of the system is called in question, and the obligation of the laws disputed and denied. It would be but a work of supererogation to point out the evils of such a state of things, either with respect to domestic tranquillity or the legal relations of a Territory, thus situated, with the States of the Union. And more especially is all this to be deprecated, when we look to the circumstances existing between Texas and New Mexico, where a disputed boundary, and the claim by Texas to extend her jurisdiction over three fourths of the newly-acquired population cannot fail to lead to the most serious consequences.

The last advices from that quarter are sufficiently alarming to excite our apprehension, and to hasten our action. As to the respective rights involved in this matter, I give no opinion at present. But we all know the violence to which these border contests give rise, each party clinging tenaciously to its opinions, and ready, in the absence of any other umpire, to resort to the umpirage of force. Inaction on our part will produce action on theirs; and it is difficult to conceive a case, which more urgently demands the prompt interposition of the General Government. The establishment of legal order and the adjustment of this boundary are equally indispensable, and belong properly to the same bill. All this would be the less alarming, if we could anticipate its termination within a short period. But this we cannot do. When New Mexico may be in a condition to demand admission as a State of this Union, baffles human sagacity to foretell. There are no indications of any immediate and considerable augmentation of its population by emigration. It may be years before she can become a member of our Confederacy, and during this indefinite period—not this "short period," as anticipated in the message—she is to be left in this critical and dangerous position, which is as sure to bring trouble to her, and to Texas, and therefore to us, as natural events are sure to follow their causes. And I repeat, why is this? There should be some powerful motive—overwhelming, I may say—to justify us to the American people in this system of inaction, this neglect of constitutional duties, fraught with evil consequences, before we can expect to escape their severe reprehension. Is there any such motive?

The Administration has recommended, that Congress should not establish Territorial Governments in New Mexico. This recommendation does not arise out of any doubts respecting the power of legislation; for that is expressly conceded in the President's message of January 23, 1850; and we are referred for its foundation to the clause of the Constitution, which authorizes Congress "to make rules and regulations respecting the TERRITORIES of the United States." It is thus in the message; but it is not thus in the Constitution. There it is "power to dispose of and make all needful rules and regulations respecting the territory or other property of the United States"—an important difference, when it is sought to deduce political power over persons from the mere authority to regulate "territory (meaning land, agreeably to the decision of the Supreme Court) or other property."

Well, sir, the power being admitted, it is as much the duty of Congress to exercise it, when the proper occasion arises, as it is to exercise any other power. And what are the circumstances which, in the opinion of the President, require Congress to abstain from the exercise of a constitutional duty? They are these:

"A claim has been advanced by the State of Texas to a very large portion of the most populous district of the Territory, commonly designated by the name of New Mexico. If the people of New Mexico had formed a plan of a State Government for that Territory, as ceded by the treaty of Guadaloupe Hidalgo, and had been admitted by Congress as a State, our Constitution would have afforded the means of obtaining an adjustment of the question of boundary with Texas by a judicial decision. At present, however, no judicial tribunal has the power of

deciding that question, and it remains for Congress to devise some means for its adjustment. Meanwhile, I submit to Congress the question, whether it would be expedient, before such an adjustment, to establish a Territorial Government, which, by including the district so claimed, would practica ly decide the question adversely to the State of Texas, or, excluding it, would decide it in her favor. In my opinion, such a course would not be expedient," &c.

Here it seems to be assumed, that it is the duty of Congress "to devise some means for the adjustment" of the line between Texas and New Mexico, and till that adjustment takes place, it is recommended, that no government be established, lest such an establishment should "practically decide the question" at issue.

Now, Mr. President, Congress is utterly powerless in this matter, except so far as it may make or accept propositions for compromise between Texas and the United States.

The boundaries of Texas are just as much beyond the reach of the National Legislature, as are the boundaries of Virginia, or of any other State of the Union. An obligatory decision of such a question can only be made, agreeably to the message, by the Supreme Court, and then only when it arises between two States, and not when it arises between a State and the United States, acting for a Territory. In the latter case, the parties are wholly independent of each other, and a compromise presents the only practicable means of adjustment between them. No other *mode of adjustment can be devised;* and it seems to me, that when the Executive presented the subject to Congress, it would have been better to recommend some such plan of adjustment, rather than to leave the controversy indefinitely open, and the country without a government.

But, sir, there is a still more serious objection to this course, than the failure to recommend specific action to Congress. The recommendation is to do nothing. If I read the Constitution rightly, the duty of the Executive is to communicate information to Congress concerning the state of the Union, "and to recommend to their consideration such measures as he shall judge necessary and expedient."

Instead of the recommendation we have received being for the *consideration of measures*, it is that no measures be considered or adopted on this subject of Territorial governments. It admits the power of Congress, but advises that this constitutional power be left unexecuted. In what clause of the Constitution it is found, that the President has authority to advise Congress not to execute one of its duties, when the occasion arises, I have been utterly unable to discover. I neither see its existence, nor foresee all its consequences. If one constitutional duty may be omitted, and that, too, with the express sanction of the Executive, who can tell how far this principle of legislative inaction may go, and what other great interests of the country may become the sport of chance, instead of being directed by wisdom and experience? Little is gained in the management of national affairs by yielding a great duty to the pressure of temporary circumstances. I shall not pursue this topic, sir, though it is fruitful in reflections, but will merely remark that the powers of the Government were granted to meet the exigencies of the country, and to meet them in the mode provided in the Constitution. To do nothing, when such exigencies arise, is neither to fulfil our own duties, nor to exercise a just forecast, which is aware of impeding difficulties, and seeks to obviate them by prudence and firmness.

But for myself, sir, I do not see the difficulty which the President apprehends. Under any aspect, a declaration saving all ulterior rights would prevent any conclusion being drawn adverse to Texas, from an act of legislation merely providing a temporary government for a people just passing under the dominion of the United States The President, however, recommends to us not to establish a Territorial Government in New Mexico, because that measure, by including the district so claimed would practically decide the question adversely to the State of Texas, or by excluding it would decide it in her favor. Neither our action nor inaction can affect the rights of Texas, *practically or speculatively*. If, indeed, we acknowledge her jurisdiction to the Rio Grande, there is, of course, an end of the question, as, being one of the parties, we have full authority to recognise her claim But even should we undertake, in the establishment of a Territorial Government, expressly to carry its boundaries across the Rio Grande, how is it possible that such a step, taken by one of the parties, would "decide the question adversely" to the other? We have just as much authority, by an act of Congress, to decide a question between the United States and the British possessions, as we have between the United States and Texas.

But, sir, there is a very obvious mode of avoiding any improper interference with the claims of Texas, and that is the very mode provided in the bill. It does not undertake to define her western boundary, by defining the eastern boundary of New Mexico. It leaves that question for amicable adjustment, and, if that cannot be brought about, for such ulterior settlements as our Constitution provides. It therefore decides no claim *adversely* or *favorably*, *speculatively* or *practically*. But it wisely offers liberal terms to Texas, in the hope—a well founded one, I trust—that these will be accepted, and this controversy terminated without further difficulty. Should they not, neither party can be injured by the establishment of these local temporary Governments. Texas will retain all her rights, and New Mexico will acquire no new ones. The latter will possess legal instead of doubtful order, or actual disorder. How far it shall extend is a question we cannot authoritatively settle; but, so far as it does go, it will be a great benefit, leaving to the parties all their just rights, thus removing the objection to action stated by the President, that such action would "practically decide" a question which we have no right to decide.

But, sir, in this brief examination of the objections of the Administration to the establishment of a Government for New Mexico, what becomes of Utah, removed a thousand miles by any travelled route from the western boundary of Texas, as claimed by herself, and where there neither are now nor have been any Mexican laws to justify our inaction? These grounds of opposition to our legis-

lation are utterly inapplicable to that region, as is the reason given for reconciling us to sit still and to do nothing.

There is no "district so claimed" by Texas to be found there, and therefore no question of jurisdiction to be decided favorably or unfavorably by our action. Nor do "the people of this Territory still enjoy the benefit and protection of their municipal laws, recently derived from Mexico." Nor have they "a military force stationed there to protect them from the Indians," which is one of the reasons "especially" urged in the message why "such a course (the establishment of a territorial government) would not be expedient." I do not understand how, in a free country like this, the presence of an armed force should reconcile Congress to the omission of its constitutional duties, or the people to the absence of legitimate government. Wherever there is danger of Indian incursions, there it is the duty of the Executive to afford protection by an adequate force; but this duty is wholly independent of the question of civil government, and its performance affords no just compensation for any neglect in the establishment of political institutions.

But, though this objection to legislation is most prominently stated in the President's California message, there is still another, which is also presented; and which of course should meet with our consideration:

"Seeing, then, (says the President,) that the question, which now excites such painful sensations in the country, will, in the end, certainly be settled by the silent effect of causes independent of the action of Congress, I again submit to your wisdom the policy, recommended in my annual message, of awaiting the salutary operation of these causes, believing we shall thus avoid the creation of geographical parties, and secure the harmony of feeling, so necessary to the beneficial action of our political system."

In the annual message here referred to, the policy of legislative inaction is recommended solely on the ground, that thereby, in consequence of the necessary action of the people themselves, governments would be established, and "all causes of uneasiness avoided, and confidence and kind feeling preserved." The objection to legislation, founded on the Texian claim, which occupies so prominent a place in the second message, is altogether unnoticed in the first. Why, I know not, for time had made it neither stronger nor clearer, nor better known. The policy of inaction seems to have been early determined upon, but the principal reason in its support to have come from after reflection.

Now, sir, I shall deal fairly with this subject. I repeat, that I do not call in question the motives of the Administration. Far from it. I feel the importance, the vital importance of this question, and certainly when the President's annual message was prepared, its aspect was even more portentious than it is now. I do not wonder there was a desire to avoid it, but I do wonder how it was expected it would be avoided by the neglect of Congress to fulfil its legislative duties. There was but one way of calming the public agitation, and that was by organizing Territorial Governments, leaving to the people to be affected by them the right to manage their internal concerns in their own way. How could agitation be calmed, while the causes of dispute were in full operation? While the Territories were without governments, and the Wilmot proviso, like a threatening cloud, was hanging over the country? That calamitous and useless measure could only be finally stopped by the final action of Congress, exhausting its powers upon the whole subject. Till such action, all the elements of mischief would be in full operation.

But, sir, omitting all consideration of the propriety of neglecting a legislative duty, as a question of political ethics, still the whole matter has undergone a material change since the policy of the Administration was made known to the country. At that time the result of an attempt to affix the Wilmot proviso to a bill establishing a Territorial Government was unknown, though the danger, if it succeeded, was apparent to every reflecting man. Now, no uncertainty rests upon the subject. This source of uneasiness is removed from our councils. No Wilmot proviso can pass Congress. This can neither be disputed nor denied. Whatever else we may do, we shall not do that. A Territorial Government, without the Wilmot proviso, is as harmless a measure, as any other upon the statute book. That proviso is the true apple of discord, and, being rejected, "confidence and kind feeling would be preserved," and harmony and tranquility restored to the country. It is not the passage of laws establishing Territorial Governments, which would keep alive the agitation, but their passage with a proviso, obnoxious to one-half of the Confederacy. Why, then, should the policy of inactivity be continued as the policy of the Administration, and supported as such in both Houses of Congress? The passage of the bill without this offensive restriction will produce no excitement in the South. We all know that. On the contrary, it will allay it, by removing a principal cause of dissension. What, then, is the possible objection to our action! Let those, who consider the Wilmot proviso constitutional and necessary, vote for it. But let it not be urged as a reason for not meeting the question, that its agitation is dangerous. That agitation has begun, has continued, and will go on, till it yields to our final action. Agitation, indeed! Why, many of the very persons through the country, who deprecate it as a reason for avoiding the only means of its termination, are among the very persons, who are perpetually presenting the whole subject to the community in the worst and most offensive form. Are these exciting discussions to go on, and all the mischief done that we can do by inflaming the public mind, and, when we approach a termination, are we to be told, Sit still, leave the Territories without governments, or otherwise you will agitate the country?

No, sir, no; this course of adjustment is dangerous only to those, whosoever or wheresoever they may be, who are unwilling to meet the question by an open manly vote. That is the true and only danger.

I must confess, that I have listened with amazement to much that has been said upon this subject, and if I know any thing of the intelligence of the American people, the course of policy advocated here is little likely to be made more acceptable by the alledged reasons which dictate it.

The President considers in his message, that there is a legal existing Government in New Mexico, which secures to the people "the benefit and protection of those municipal laws originally derived from Mexico." I am warranted in saying that the President so considers it, because laws cannot afford their "benefit and protection" unless there is a legal and competent authority to administer them. I shall not stop to examine this topic here, nor to point out the difference between political institutions, which require officers legally appointed to give them effect, and civil rights; the former, having relation to appointment, cease with the cession of the country; the latter remain till changed; nor to point out the duty, in any view of the subject, of preventing by direct legislation the difficulties and dissensions, which are sure to come, and of defining the relations between the confederation, and these new acquisitions, left in such an embarrassing condition. But what I desire to remark is, the strange inconsistency of contending for the Wilmot proviso, and at the same time declaring that, with or without that proviso, Congress ought to pass no law upon the subject of Territorial Governments. For we have been distinctly told by the Senator from Connecticut, (Mr. Smith,) and we may well presume he speaks ex cathedra, that he should vote for the Wilmot proviso, and, whether that measure were adopted or not, he should then vote against the bill. Practically, he would help on the agitation to the last point, and then, when it might be terminated forever, he would turn round, and stop all legislation, leaving the same battle to be fought again, with consequences still more disastrous, such as renewed agitation never fails to bring with it.

Well, sir, why should the establishment of a legal government, leaving untouched the question of slavery, be a worse measure, under any circumstances, than this no measure; this acquiescence in a military government, perfectly invalid, unless, to use the words of the present Secretary of War, "it rests on the consent of the inhabitants under it," and where all the officers are appointed, and the administration of public affairs directed, by a colonel of the army. No Wilmot proviso—that is, no prohibition by Congress against slavery—follows one case or the other; and I am utterly unable to discover how leaving the people to be governed by the Mexican laws, with all the evils of a military rule, and of doubful obligation, can be any better, in the opinion of those who consider the Wilmot proviso so important, than the establishment of a government, which leaves the whole subject as it finds it, and does not undertake to touch the rights of the country in this respect.

In connexion with this branch of the subject, it becomes necessary again to recur to the President's views of the condition of Territories, left without governments instituted by Congress, and of the rights which belong to them. I have already referred to the passage of the message touching these subjects, but we have an authoritative exposition of them, entering more in detail into the whole matter. It is found in the Republic of the 30th May, an official organ of the Administration. I say an authoritative exposition of the views of the President, not only because of the relations, which that paper bears to the Executive and the Cabinet, but because the editor, in the article referred to, introduces the name of the President, by his own authority, when denying that any change had taken place in the views of the Administrarion upon this subject. I take it that no one who has read this article will deny, that it has been carefully prepared, and is intended to define the position of the Administration. Well, sir, what doctrine does it hold on the subject of this Territorial right of action? Here is the general principle laid down in its application to Utah: "With regard to Utah, the people of that portion of the territory, acquired from Mexico, have emigrated thither of their own volition, and now constitute an isolated people. They have adopted a provisional form of government, perhaps as well or better suited to their condition and wants than any Congress could devise for them. They are in the full enjoyment of the great right of self-government." And in the same number of the Republic is an article extracted from the New York Courier and Enquirer, which contains the adhesion of that paper to the same principle, "that the proposition to allow the inhabitants of a community to form such laws, as they shall see fit, is neither novel nor startling to those who have faith in republican principles."

Now, sir, I have already expressed and I again renew my full conviction of the truth of this doctrine. Its foundation lies deep in the rights of man. The exercise of this power of self-government, in the absence of any other government, is not revolutionary, as it has been called, but strictly conservative—conservative of the existence of society, and of the relations with the parent country, whose authority is not superseded, but supplied and acknowleged as soon as asserted. But this right of doing for themselves, what we ought to do for them, is no justification for the inaction of Congress. We have heard this right of government disputed, here and elsewhere, and by some of the ablest men in the country. And to have the validity of the laws called in question is one of the gravest evils, that can afflict a community. And there will always be found those in the Territories themselves who will do this, and thus disputes of the worst character will spring up. And the legal relations of communities, thus left to themselves, with the States of the Union, present questions of the most embarrassing nature. But I need not pursue this topic. To state the proposition is to refute it.

Well, sir, in the exercise of the powers of government, thus necessarily assumed, what may a legislature do, or rather what may it not do? It may pass any laws, not prohibited by the Constitution, and not inconsistent with the relations, existing between these Territories and the Union. They may regulate all the domestic relations; the condition of husband and wife, of parent and child, of guardian and ward, and indeed organize and control the whole legal institutions of the country. They can institute slavery, if the Constitution permits, and exclude it under similar circumstances. No man can draw a line between the power to regulate the relation of master and servant, including the condition of slavery, and the power to control the other domestic relations, unless that line is found in the Constitution. Such is the state of this question, with respect to the

power of Territorial legislation over it, where the Legislatures are established by the people themselves. And what would it be, in the event of the passage of this bill?

We have inserted a restrictive clause, forbidding the Legislatures created by the bill from establishing or prohibiting slavery. If this clause remains, the *status quo* of slavery remains with it, and the existing condition cannot be changed. This restriction was carried by the votes of several members, who had already voted for the Wilmot proviso, and upon the ground, that slavery, not existing in these Territories, it cannot go there, unless the people, when they come to establish their State constitutions, should choose to introduce it. In this view the bill will be more favorable to the opinions of those who seek to exclude slavery by the action of the General Government, than the existing state of things, which leaves to the people to introduce it at their pleasure, if not prevented by the Constitution. If the interdict upon the power of the Territorial legislatures should be struck out, then the question would be left by the bill precisely where it now is, with powers to the legislatures established by it to change the law upon this subject at their pleasure. And yet, the Republic anticipates that the passage of this measure would give great dissatisfaction at the North, and one of the most intelligent representatives from New England, (Mr. Winthrop,) a gentleman, whom to know is to respect, partakes of this apprehension, and even in a stronger degree, and in a speech in the House a few days since expressed his forebodings in gloomy terms, predicting that the "organization of Territorial governments, without any anti-slavery clause, would only transfer the agitation and indignation to the other end of the Republic, and would tend freshly to inflame a spirit, which we all deplore, and which Southern men especially cannot fail to desire to see forever extinguished."

Now, sir, if this Union is destined to endure till it is dissolved by the citizens of New England, in consequence of the passage of a law giving to the people of these new Territories the unrestricted right of self government, it will live "longer than I have time to count its years;" to live, indeed, till human governments have fulfilled their functions, and are succeeded by that kingdom of peace, which is to come in his good time, who has promised it.

Mr. President, I estimate the intelligence and patriotism of my native section of country at a far higher standard than this *Agitated* and *indignant*, perhaps ready to rend "the Union asunder"—for that is one of the alternatives held out by the speaker with reference to the South, a feeling the result of that spirit of agitation and indignation, which is to find its abiding place in the North—*agitated* and *indignant*, I say, on account of the passage of a law, which leaves the question of slavery just as it found it, or in the event of changing it at all, renders impossible its introduction by legislation into the Territories, during the existence of these temporary governments! And the very community is to be thus *agitated* and *excited*, whose representatives are anxious to leave these regions just as they now are, with the consequences I have stated! Well, sir, if this is not a tempest in a teapot, so far as regards this ground of difference, I do not know where we shall find one. No, sir, no; the day after this bill is known to have become a law, the sun of New England will shine upon as calm and tranquil, as I know it to be as intelligent, and trust it will be as prosperous, a community, as there is to be found upon the face of the globe. They will be contented to let other people do as they have done themselves, manage their own affairs in their own way. We are prone in party questions to look through a peculiar medium; a medium which distorts, while it magnifies, and thus alone can I account for this apprehension, which will have lived its brief space and then pass away

The Executive "plan," or the "course of policy," to use the words of the Republic, contains, according to the exposition three propositions:

1. "Early admission into the Union as States."

2. "Non intervention by Congress in respect to slavery."

3. "Non action by the same body in regard to the establishment of Territorial Governments," while admitting that such governments are constitutional, and while feeling also their "desirableness," as the President does, according to the New York Courier and Enquirer, which I suppose is here a soft word for necessity.

This "course of policy" is therefore confined to a single act, and to a proposition not to do two others, of which one is constitutional and "desirable." And this is the whole recommendation; and yet the encomiums upon it are as lofty, as though it embraced some complex scheme, comprehending the great interests of the country, and commending itself by its wisdom to the approbation of the whole community.

The Republic says: "It was at first hailed as a plan of deliverance and safety by patriotic men of all parties;" and the distinguished representative from Massachusetts, to whose speech I have already adverted speaks even more enthusiastically, referring to "the great beauty, the crowning grace of the President's proposition," which, he further adds, "I believe to be a wise and patriotic plan, and one which, whether it succeeds or fails, will have entitled the President to the unmingled respect and gratitude of the American people." I have confined my references to the commendations bestowed upon the President's plan to the two just introduced, on account of the position of the journal in the one case, and of the high character of the speaker in the other; but, if I were to extend them to the party papers of the day, they might be multiplied indefinitely, and would exhibit a collection of panegerics, rare even in this country, where, in our political contests, the disposition to approve or censure is seldom indulged in moderation.

Mr. President, in the consideration of any proceeding or recommendation of the Executive, while I discharge my duty with that freedom, which belongs to an American Senator, I trust I shall never lose sight of that respect, which belongs to the Chief Magistrate of my country. While expressing my dissent from these propositions, and giving the reasons, which influence me, I feel that I keep

within the limit of this reserve, when I say, that such eulogiums, even when clothed in the beautiful diction, which always marks the literary and forensic efforts of the distinguished gentlemen from Massachusetts, are not suited to the occasion, and excite a spirit of criticism, which would not otherwise be called into action.

Among the advantages of this plan, according to the Republic, is its "finality," and, by the-by, I am not responsible for the word. "It gives finality," says the official article, "to this vexed question," &c. How this is done is not explained; and, without explanation, I confess it is as difficult to read as any riddle of the olden or of the modern time. A great question of public policy, agitating the Union to its centre, is to be finally and satisfactory disposed of by the refusal or neglect of Congress to legislate upon the subject. Why, if you refuse to-day, what is to prevent a renewal of the effort to morrow, and so on, from day to day, to the end of the chapter? It is possible that even the establishment of Territorial Governments, if without the Wilmot proviso, might not deter men of extreme views from again urging us to engraft that restriction, by a subsequent act, upon the organic law, though I suppose not one man in Congress, and very few out of it, would ever dream, that such an effect could be successful. The government, once committed to the people of the Territories, would not be disturbed by our action. But, short of that, there is no place for peace to rest upon.

In the message we are told, that the existing state of things in New Mexico will continue only for "a short period," which expectation is repeated by the speaker from Massachusetts, and called "a little while longer," and by the Republic, which promises it will be but for a "brief space." Be it longer or shorter, its termination is only anticipated by the President when New Mexico shall "ask for admission into the Union." That admission depends both on the people there, and on Congress here. They have already refused to "ask admission;" but whether the extremity of their situation may not induce them to change this determination, and to assume a burden they evidently desire to avoid, I have no means of judging. But is there any certainty of a favorable action by Congress upon their application for admission, should they make one immediately? As to their right, that is put expressly in the treaty of cession upon the discretion of Congress; and, as all know who were in the Senate at the time, the original provision respecting admission, which was imperative, was changed; and with the avowed object of enabling Congress to look at all the circumstances of the people, both as to population and condition, and to accomodate to these political elements the period of their admission. We have had some disclosures here upon this subject, which I must confess have rather surprised me, and yet made by gentlemen who have the best means of information. It is said there are not more than five hundred American emigrants in New Mexico, with the exception of persons attached to the public service, nor more than sixty thousand persons of all colors and castes; and of those, that not more than one-half are capable of exercising the privileges of self-government. Many of the latter class, I understand, are intelligent, and fully prepared to take part in the administration of their public concerns.

I have already adverted to the views of the message respecting the want of constitutional power to adjust the boundary of Texas, without the consent of that State, until the admission of a coterminous State should give jurisdiction to the Supreme Court. We have heard this view disputed here by a gentleman (Mr. Webster) to whose opinions upon constitutional law, the Senate, and, indeed, the country, always look with great respect. He maintains, that the Supreme Court has jurisdiction over the subject, as a question between the United States and one of the States of the Union. If this be so, still it might be years before the controversy were adjusted, and in the mean time all the difficulties would go on augmenting. But, assuming the doctrine of the message to be the true one, and I do so because I desire to give the Administsation the benefit of its own views, should we be called upon to decide the question of the admission of New Mexico into the Union to-morrow, we must either omit all the population east of the Rio Grande in the estimate of the necessary number, or, if we include it, we must do so because, in our opinion, they form part of the new State; and thus we are brought directly to the question of boundary, and, in fact, decide it. What our decision is worth, is another question. At any rate, we authorize the organization of another State Government within the limits claimed by a sovereign State of this Union. That would be a dangerous step in the progress of this Government.

We are further told, that the population of New Mexico, west of the Rio Grande cannot exceed one third of the whole population—say twenty thousand—only one half of whom are represented as being prepared to exercise the rights of self-government; and thus, if a State Government were now organized, it must commence its operations with that number, unless we decide, that we will erect a State within the limits of Texas, as claimed by herself, and without her consent.

Now, sir, if these facts are so, the immediate admission of New Mexico into the Union, even if the people desired it, would present a question of much difficulty, or rather of no difficulty at all, for it could not take place, with any just regard to the first principle of our Government. I say, if these facts are so, for I am not responsible for their accuracy. At any rate, they would have to be cleared up and the difficulty removed, before any favorable action could take place. Who, then, has a right to say that the period of the subjection of New Mexico to a military government will be "a short one" or a "brief one," or only "for a little while longer?" We are told by the Republic, that the President's plan "takes the subject of slavery out of the political arena, and extinguishes it, as a political issue in the party politics of the times," and by the Richmond Whig, in an article introduced into the Republic, that "the President proposes to leave them as they are (that is, Utah and New Mexico) until they are prepared for admission as States, with the distinct understanding that Congress is to attempt no legislation with respect to their domestic institutions." *Indeed, and*

there is to be a distinct understanding, that Congress will not attempt even to legislate upon the subject of slavery! And this kind of security is a part of the President's plan! And who are to be the parties to this "understanding," Congress or the people? And what is to be the form of the arrangement?

But, sir, it would be idle to pursue such an inquiry. The very proposition itself evinces an inattention to our national character and institutions, which I am surprised to see exhibited by one journal, and to find transferred to another, and especially to an official one. The Whig evidently saw, that, without this *understanding*, the President's plan wanted the very first element of successful operation. It would have only the finality of to-day, and the *arena* would be "*changed*," to be reoccupied to-morrow. This embarrassment, if it escaped the Cabinet did not escape its friends; but, while the evil was obvious, the remedy was difficult. The true remedy would be to exhaust the functions of Congress by the establishment of Territorial Governments; but this was rejected by the plan itself, and I am afraid there is no *vis medicatrix* to be found in political nature, or out of it, which will supply its place.

Well, sir, during all this period, be it longer or shorter, the people of New Mexico are to be subjected to a military government, in this time of profound peace, in this country, boasting it is the freest in the world, and in this middle of the nineteenth century, boasting it is the most enlightened and intellectual in the whole history of man. And, to reconcile the country, and Congress, and the people thus ruled, to the exercise of military power, we are told by the President that these people "will have the benefit and protection of their municipal laws, originally derived from Mexico, that they will have a military force to protect them against the Indians," (and against themselves, too, perhaps, agreeably to a once favorite doctrine, that the people are their own worst enemies,) and "that they are better protected in their lives, and liberties, and religion, than they ever were before the treaty of cession."

The honorable Senator from Missouri (Mr. BENTON) expressed a very different opinion from the President on this subject. He told us that New Mexico had suffered more under our dominion than it had ever suffered before during an equal period under the dominion of Spain or Mexico, and certainly the information contained in the California documents corroborates this statement. In a letter from Mr. Calhoon, Indian agent, dated October 1, 1849, he tells the Indian Department that "the wild Indians of this country have been so much more successful in their robberies since Gen. Kearney took possession of the country, that they do not believe we have the power to chastise them." And in a letter of October 13, 1849, he says: "The Indians at Jemez with one voice renewed their complaints of gross wrongs, to which they have been compelled to submit; and they are such too as require immediate remedial measures."

And it appears the evils they labor under do not result alone from Indian incursions. They extend to civil aggressions. "The frauds and impositions," says Mr. Calhoon in the same letter, "of certain alcaldes unknown to their laws ought not to be endured," &c. "Contributions upon their labor and property are frequently made by the law or laws, which alcaldes and prefects *manufacture* to suit the occasion." "The powers here," he states elsewhere, "have neither the authority nor means to reduce to order the chaotic mass in this Territory," &c.; and he adds *significantly* that "the truth in relation to Government affairs here is not understood at Washington."

But the blessings that New Mexico enjoys from a military government are more fully portrayed in the commentary of the Republic, than in the President's message, and it is emphatically announced, that "we profess to be wholly at a loss to conjecture" what great hardship there would be in leaving the people of New Mexico in this condition, "with a Lieutenant Colonel in the army of the United States, who will exercise the civil functions of Governor in the manner and to the extent that they were formerly exercised by Mexican governors, and who will also be in command of a sufficient military force to protect them," &c. And then comes the great compensation, which in its principle has always been the "crowning grace" of all arbitrary governments, to use a phrase I have already borrowed, that the ruler is a wise man and a paternal one, which leads to the consoling reflection that the people are better governed by such a man, than they could be by themselves. "That any Lieutenant Colonel can be found in the army of the United States less qualified for the discharge of such a trust, than any Mexican that ever filled the office, is not at all probable."

And so, when a foreign people are attached to our Confederacy, it is a great consolation to them to be told, that they will have no worse military government than they had before, and that our Lieutenant Colonels are as good as theirs—for a "short period" or for a long one. And this, too, is urged as a reason for legislative inaction, not under the pressure of the necessity of an immediate and temporary organization, but two years after the acquisition, and is to continue, no one knows how long. Well, sir, I shall argue no such proposition as this before the American people. If it is not condemned instinctively, they have sadly degenerated from the times of their fathers, and are prepared to surrender the great principles of the Revolution. The present Lieutenant Colonel at Santa Fe is no doubt a very good man and faithful officer. That was stated by the honorable Senator from Mississippi, (Mr. DAVIS,) in whom we all have confidence, but it does not weigh as the small dust of the balance in this inquiry.

I am dealing with human nature, not with personal character; and though this officer may be a very good ruler, his successor, a second Lieutenant perhaps—for that depends, at least for a time, on the accidents of the military service—may be a very bad one. The world has had its Neros as well as its Trajans, and, unfortunately, the class of the former is much more numerous than that of the latter. "Oh, how wretched!" says the great delineator of human character:

"Oh, how wretched
Is that poor man that hangs on princes' favors!"

Experience may show, that the first variorum edition of Shakspeare for Santa Fe should read:

"Oh, how wretched
Is that poor man that hangs on colonel's favors!"

It is the object of all wise Governments, by providing necessary securities, to render the administration of public affairs, as little dependent as possible upon individual discretion. There is many a Government—*paternal* Governments, I think such are called—where the personal character of the sovereign tempers the real despotism of the system. But who would be content with such a political organization, even for the shortest period? When death or accident changes the ruler, and a new one succeeds, be he Emperor, or King, or Lieutenant Colonel, or Lieutenant—for great men die as well as small ones—what security is there, that he will belong to the class of patriots, and not of tyrants? Human rights should have some surer foundation, than what have not inaptly been termed the accidents of digestion, the personal temperament of the ruler. As to the entire *invalidity* of such a government, wherever the Constitution of the United States extends, except so far as the voluntary act of the people to be affected by it, in the absence of Congressional legislation, may give it toleration, I shall not waste the time of the Senate, nor my own, in considering. We have not reached that point yet in the progress of our institutions. But, sir, the most extraordinary feature of the Executive recommendation is the effect it is to have upon the agitation of the country.

"We should abstain," says the President, in his annual message, "from the introduction of these exciting topics of a sectional character," &c., and with this view he recommends to Congress to avoid all legislation over the Territories. How abstaining from legislation is to ensure abstaining from the *introduction of this exciting topic*, we are not told, and as no mortal power could accomplish the latter, I shall not enter upon the inquiry. The President recommends, that we should not act, but not that we should not talk. He understands his own duty, as well as the character of his countrymen, and the nature of their institutions too well to do that. Still it is the *introduction of this exciting topic*, the talking about it in fact, which he apprehends, and which he is desirous to prevent. The Republic presents this branch of the subject, much more elaborately. It says that the President's object in this recommendation was "to put a stop to all agitation, in Congress and out of it, on the subject of the introduction of the institution of slavery into that Territory," &c.; and after speaking of the danger of legislating, it says, that no law could pass Congress "without bringing up the Wilmot proviso, if indeed any such bill could pass without having that proviso incorporated into it. The mere discussion of that question in Congress, and the necessity of having to vote upon it, were to be deprecated and avoided, because such discussion and such a vote, even if the Wilmot proviso should be voted down, would, in all probability, sow the seeds of agitation and excitement broadcast over the land."

Well, sir, the fear of the Wilmot proviso is gone; it is among the things that have been. *Voting and discussion, and agitation*, are now all, that are left to be apprehended. As to voting, I leave the fear of it to those, if there are any, and I do not believe there is one, who may yield to it, and the condemnation of their conduct to their constituents, which is sure to come. It is not such a motive for avoiding legislation upon a grave subject, as we should have expected to find in an official journal. At any rate, it is not applicable to the Senate, for we have all taken our positions in the face of the country, nor do I believe it ever was applicable to the House of Representatives, as their position must be equally taken, and is perhaps taken at the very moment of this debate.

Now, sir, with respect to "discussion" and its consequence "agitation" which, agreeably to the President's views, "were to be deprecated and avoided," did the Administration, did one man in this broad land suppose, that an Executive recommendation to Congress would banish this topic from the Legislative councils of the country, and from the hearts and thoughts of the American people? He, who looks for such a result, has yet to learn the very first element of our national character. Could the Cabinet have thought, that when the President said "Peace, be still," the sea of popular commotion would become calm, and that tranquility would be restored to the political atmosphere? No, sir, no; there is no prophet, true or false, in these days to work such a miracle as that. The waves would subside at the voice of reason, but would rise still higher at words of command. It is reflection, not authority, which in this country stills the tempest.

The evil day is upon us. "Discussion" has come, "voting" has come, and "agitation" has come with them. All the mischief, that has work to do, is doing its work. Why not take the good with the evil? There can be no Wilmot proviso, and no one proposes to interfere with the claims of Texas. Then why not terminate this whole controversy, and thus banish its remembrance from our councils and country? I have listened to all that has been said, with an earnest desire to do justice to the views of others, as well as to form my own. But I have yet to hear the first sound reason, why we should not adjust this whole dispute, as we may do, with as much certainty as ease, by the admission of California, by the establishment of Territorial Governments, and by the adoption of the other means recommended by the committee. That done, we should enter again upon a glorious career, *with none to trouble us or to make us afraid.* God grant, that the denunciation contained in the command to the prophet may not already have gone out against us "Say ye not A confederacy, to all them to whom this people shall say A confederacy; neither fear ye their fear, nor be afraid."

REMARKS

OF

MR. RUSK, OF TEXAS,

ON THE MOTION TO STRIKE OUT

THE THIRTY-NINTH SECTION OF THE "COMPROMISE BILL,"

BEING

THE PROPOSITION TO TEXAS.

DELIVERED IN THE SENATE OF THE UNITED STATES, JUNE 14, 1850.

On the motion of Mr. TURNEY to strike out the 39th section of the Compromise Bill, it being the proposition to be submitted to Texas for the adjustment of her boundary, Mr. RUSK said:

Mr. PRESIDENT: No one is more reluctant than I am to occupy the time of the Senate by any further discussion upon the subject before it. But, after the observations of the Senator from New Jersey (Mr. DAYTON) and the Senator from New York (Mr. SEWARD) yesterday, I have no other course to pursue in the discharge of my duty than to say a few words on what I conceive to be the most important feature in this bill. The right of Texas to the territory lying east of the Rio Grande necessarily connects itself with the discussions arising out of this question. The honorable Senator from New Jersey, especially, denied that Texas had a right to a single foot of land of what, according to the subdivisions of Mexico, was formerly considered New Mexico; and he produced, for the purpose of exhibiting the title of the United States, what he called the deed—the treaty of Guadalupe Hidalgo. That, sir, is the very instrument upon which I rest the right which Texas asserts to this territory. I shall not go back to discuss the question of the treaty with Santa Anna and the various acts of possession which may have been exercised on this side of the Rio Grande by Texas or Mexico; not because I do not believe that I would be capable of answering fully, and effectually, all that has been said upon that subject, but because since the treaty of Guadalupe these matters have become totally irrelevant to the question at issue before the Senate. Let us, however, go back for a moment to what immediately preceded annexation. Every body remembers that in

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1844 a treaty was presented to the Senate of the United States for the purpose of annexing Texas. All know its fate. It was rejected. That treaty and the joint resolution which followed immediately afterwards, necessarily brought up before the American Congress the question of what they were going to annex by the name of Texas? This was a point of peculiar importance, because it was asserted by some, and denied by others, that the annexation might result in a war with Mexico with regard to the true boundary line between Texas and Mexico. I will not trouble the Senate with extracts from the debates on that occasion; but many of those who now deny that Texas has any right, asserted, then, that if we annexed Texas, we annexed her according to the boundaries which she claimed. I could make this manifest by reference to the debates; but I will not consume the time of the Senate by dwelling upon this part of the subject. The only point to which I shall refer is this. During these discussions, the President of the United States was called upon to furnish information as to what were the true limits of the Republic of Texas, then about to be annexed. In reply, he furnished a map defining the Rio Grande from its mouth to its source, and to the 42d parallel of north latitude, as the western boundary of the State which was about to be admitted. It came before Congress in the discussions upon the treaty, and upon the joint resolution; and entered, as the history of the time fully shows, into the debate which took place upon the proposition to annex Texas. Well, sir, not only was this information before every body here; not only did the discussion apply to Texas as she had defined herself to be; but, sir, in the bond which constitutes Texas one of the States of this Union, plain and unmistakeable notice is given to Texas that this claim was recognised. There were many voices, I know, against the execution of this compact; but the Government of the United States became a party to it, and it was executed in good faith, and I claim that there shall be but one voice in the performance of all the obligations imposed by it, upon the Government. Let us turn to it for a moment, and see what are its provisions:

"*Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled*, That Congress doth consent that the territory properly included within, and rightfully belonging to, the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said Republic, by deputies in convention assembled, with the consent of the existing Government, in order that the same may be admitted as one of the States of this Union.

"SEC. 2. *And be it further resolved*, That the foregoing consent of Congress is given upon the following conditions, *and with the following guaranties, to wit:* First, said State to be formed subject to the adjustment by this Government of all questions of boundary that may arise with other Governments; and the constitution thereof, with the proper evidence of its

adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January, one thousand eight hundred and forty-six. Second, said State, when admitted into the Union, after ceding to the United States all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defence, belonging to said Republic of Texas, *shall retain* all the public funds, debts, taxes, and dues of every kind, which may belong to, or be due and owing said Republic; *and shall also retain all the vacant and unappropriated lands lying within its limits*, to be applied to the payment of the debts and liabilities of said Republic of Texas; and the residue of said lands, after discharging said debts and liabilities, to be disposed of as the said State may direct; but in no event are said debts and liabilities to become a charge upon the Government of the United States. Third, new States of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution. And such States as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union, with or without slavery, as the people of each State asking admission may desire. *And in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery or involuntary servitude* (*except for crime*) *shall be prohibited.*"

Well, sir, Texas came in with a full knowledge of all these facts. This overture of annexation was presented to her and strong assurances were given that it would not only be carried out in good faith, so far as she was concerned, but that she might rely on the magnanimity as well as the justice of this Government in adjusting all matters appertaining to it. She had seen your debates by which her boundary was recognized; she had seen your maps by which her boundary was recognized; she had seen the joint resolutions which guarantied to her, for the purpose of enabling her to pay her debt, "*all the vacant land within her limits;*" she had seen in the joint resolution also an arrangement for disposing, when a new State was to be formed, of her territory north of 36° 30′ north latitude, which could only apply to the territory now in dispute. Under these circumstances, having confidence in those promises, and feeling an attachment to the principles of this Government, she accepted your overtures of annexation, and furnished an example which has no parallel in history, of one Government merging its national existence in that of another, without fear or force, without any other inducement than the simple devotion of her people to the form and principles of this Government. Under these circumstances it becomes this Government to treat her *in good faith* as one of the "*original States of this Union.*" There was an unsettled question of boundary between her and Mexico. It was the duty of this Government to adjust that question. An

attempt was made to do it by negotiation. Every body knows, it failed. Mexico refused to treat. War ensued, by the act of Mexico, and the annexation of Texas was assigned as the cause of that war. She marshalled her forces, and for what purpose? To take or retain any part of New Mexico on this side of the Rio Grande? To take or retain the territory between the Nueces and Rio Grande? No, sir, for no such purpose, but for the purpose of subjugating Texas, and making the Sabine the boundary line between the United States and Mexico.

Well, sir, pending the war that followed, the United States took possession of Santa Fe, a part of the territory which was in dispute. As soon as Gen. Kearny, in the name of the United States, occupied this territory, he established, under the direction of the President, a temporary government. The Governor of Texas then inquired of the President of the United States if there was any intention to claim the territory, adversely to Texas. The President of the United States assured him that there was no such intention, but that he (the President) considered the claim, which Texas asserted to the Rio Grande, as well founded. He not only did this, but he communicated the fact of having done so to Congress. No one here raised his voice against it. Will any one pretend that the United States intended, *then*, to set up a claim to Santa Fe, to the exclusion of Texas? Such a supposition cannot be reconciled to the principles of justice, much less magnanimity. Under this assurance Texas rested satisfied, with full confidence that this Government intended to carry out fairly the obligations imposed on it by the terms of annexation. After this the Government of the United States entered into negotiations upon this subject with Mexico, and here I will remark that Mr. Trist, the negotiator, at one time, was not only severely rebuked by the President of the United States, but was dismissed and ordered home forthwith, for having, seemingly, abandoned the claim of Texas to the Rio Grande as her boundary. We shall see, sir, what was said in the correspondence upon this point by several extracts, which I now proceed to read, from a communication of Mr. Trist, to the Mexican commissioners, dated at Tacubaya, Sept. 7, 1847:

"By this event she became entitled to be protected by the United States from invasion; their appropriate organ for the discharge of this obligation being the Executive of the General Government as the functionary charged with the control and direction of their defensive force. But, of what consisted the territory of this new member of the Union, which, from the moment of her admission as such, it had thus become the duty of the President of the United States to employ the forces placed by the Constitution under his direction in protecting from invasion? In other words, where were her boundaries? To protect a State from invasion, means to prevent the occupation of any of her territory by the armed force of any other State or Nation. This obligation, therefore, manifestly implies the existence of limits to her territory; limits, the crossing of which by a foreign force constitutes an invasion. It necessarily results, from the very nature of

things, that this duty of protection can have no existence, except concurrently with the existence of such limits. When considered with reference to this obligation, a territory without determinate limits is a contradiction in terms; it is of the very essence of the obligation that the portion of the earth's service to which it attaches shall be definitive and determinate; it being otherwise impossible to say when it is invaded, and when it is not invaded.

"Where, then, were the limits of this new member of the Union? As defined and asserted by herself, the territory of Texas extended to the Rio Bravo. Her right to insist on this boundary was equally good, and identically the same, in all respects as the right of Mexico to insist upon any other line of separation; and this right agreeably to a principle of international law, too well established to admit of dispute or doubt, existed *independently of the question as to what might or might not have been the true limits of Texas whilst constituting a part of the Mexican Republic.* * * *

"In a word, the Republic of Texas and the Republic of Mexico had been for many years at war; and, as the condition to the cessation of this war, either party had the same right identically to demand and insist upon the establishment of such boundary as in her judgment was the just and proper one." * * * * "Such, then, was the position of Texas with regard to her boundary towards Mexico at the time when she became admitted into the Union. According to the well settled doctrine of international law upon this subject, the line of demarcation between the two republics *had become obliterated by the war;* and the consent of both parties had become necessary to the re-establishment of that line, or the establishment of any other as their common boundary." * * * *

"With respect to this point, however, the American Congress, through a scrupulous regard for any right that Mexico might have, or might suppose herself to have, to any portion of the territory embraced within the asserted limits of Texas, reserved to the United States the right to determine those limits by means of friendly negotiation with Mexico; this being, as has already been observed, the only way in which an international boundary, in the proper sense of the term, can be ascertained. For, although one of two conterminous nations may select for itself, and may maintain by force, the line which is to separate her territory from that of the other, yet a boundary between them can never be said to exist except in virtue of the consent and recognition of both. Without such agreement between them, neither of two nations whose territories touch each other can be said to have a boundary.

"Such was the state of the case between Texas and Mexico at the time of the admission of the former into the American Union; and such it necessarily continued to be after that event, with this single difference, that the question between Mexico and Texas had now become one between Mexico and the United States. No agreement or understanding had yet taken place between them.

"The Mexican Government, on the contrary, still claiming to consider Texas as a rebellious province, over which it intended to re-establish its authority, it was, in the nature of things, impossible that the boundaries of this new member of the American Union should have become determined.

"From this state of things resulted the obligation, equally imperative upon the United States and upon Mexico, to effect as speedily as possible that settlement of boundary which, by events now past recall, and mani-

festly to the whole world constituting a 'fact fulfilled,' had become a matter of absolute necessity between these two parties, as that by virtue of which alone either of the two could exercise authority over any portion of the country lying between the Rio Bravo and the Sabine, without the certainty of collison between the equal right and equal obligation of each to defend its territory from invasion; for, as has already been stated, whilst Texas on the one hand asserted that these two rivers constituted her boundaries, the Mexican Government, on the other hand, persisted in denying the separate existence of Texas as an independent State, and claimed the whole country embraced between those streams as still consituting a part of Mexico." * * * *

"The boundary between the two Republics, when considered by the United States with reference to the national obligation to protect their territory from invasion, could be none other than that very boundary which had been asserted by Texas herself."

I might read much more to the same effect; but, sir, it is unnecessary to do so.

If the United States Government were not entirely faithless to the obligations which It had undertaken for Texas, (which it is not fair even to suppose,) the first thing which presented itself was to settle the dispute between Texas and Mexico, as to boundary. The correspondence with the Mexican Commissioner shows that the United States Government was not regardless of the bond into which she had entered with Texas. It was bound to settle the disputed question either by negotiation or by the sword. Texas had surrendered the sword, as well as the power of negotiation, into the hands of the United States. The Government of the United States was therefore bound in good faith, according to the stipulation which had been entered into, and by every principle of moral honesty, to maintain fairly the just rights of Texas in the adjustment of this boundary. It did so; it settled her boundary, and now there is no quarrel between her and Mexico. This Government did another thing, by means of this treaty; it acquired territory from Mexico under the name of California and New Mexico, as an indemnity, as it was said, for the war; and here let me read the fifth article of the treaty, to see how the matter of the boundary line between the two Republics was arranged.

Fifth article of the Treaty with Mexico.

"Art. V. The boundary line between the two Republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence, up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the Southern boundary of New Mexico; thence westwardly along the whole southern boundary of New Mexico, (which runs north of the town called *Paso*,) to its western termination; thence northward, along the western line of New Mexico, until it intersects the first branch of the river Gila; (or if it should not intersect any branch of that river, then to the point

on the said line nearest to such branch, and thence in a direct line to the same;) thence down the middle of the said branch and of the said river, until it empties into the Rio Colorado; thence across the Rio Colorado, following the division line between Upper and Lower California, to the Pacific ocean.

"The southern and western limits of New Mexico, mentioned in this article, are those laid down in the map entitled 'Map of the United Mexican States, as organized and defined by various acts of the Congress of said Republic, and constructed according to the best authorities. Revised edition; published at New York, in 1847, by J. Disturnell.' Of which map a copy is added to this treaty, bearing the signatures and seals of the undersigned plenipotentiaries. And, in order to preclude all difficulty in tracing upon the ground the limits separating Upper from Lower California, it is agreed that the said limit shall consist of a straight line drawn from the middle of the Rio Gila, where it unites with the Colorado, to a point on the coast of the Pacific ocean, distant one marine league due south of the southernmost point of the port of San Diego, according to the plan of said port made in the year 1782, by Don Juan Pantoja, second sailing-master of the Spanish fleet, and published at Madrid in the year 1802, in the Atlas to the voyage of the schooners *Sutil* and *Mexicana*—of which plan a copy is hereunto added, signed and sealed by the respective plenipotentiaries.

"In order to designate the boundary line with due precision, upon authoritative maps, and to establish upon the ground land-marks which shall show the limits of both Republics, as described in the present article, the two Governments shall each appoint a commissioner and a surveyor, who, before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the port of San Diego, and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep journals and make out plans of their operations; and the result agreed upon by them shall be deemed a part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree regarding what may be necessary to these persons, and also as to their respective escorts, should such be necessary.

"The boundary line established by this article shall be religiously respected by each of the two Republics, and no change shall ever be made therein, except by the express and free consent of both Nations, lawfully given by the General Government of each, in conformity to its own constitution."

It becomes proper to inquire what composed the New Mexico intended to be conveyed under this treaty. I hold in my hand an exact copy of the map mentioned in the treaty, and made a part of it, for all purposes for which a map can be useful, and that is in designating boundary. This map was not only referred to by its title, but it was signed and sealed by the Commissioners, and sent here and ratified as part of the treaty, and now remains attached to it, as such, in the State Department. Here is a copy of it. The Rio Grande is marked upon it as the boundary claimed by the United States in 1847, before the treaty, and when they could have no claim to it, otherwise than as a part of the State of Texas. Boundaries are traced upon this map. It is colored.

All this side of the Rio Grande and to the Sabine is white. New Mexico is plainly and distinctly traced upon it and colored green, and is, according to this designation, all of it west of the Rio Grande—[Mr. R. holding up the map.] I ask any Senator to take it, examine it, and show me, if he can find one foot of soil designated on it as New Mexico, lying east of the river. This, then, *is the New Mexico*, and the only New Mexico, ceded by Mexico to the United States. All east of the river, according to the plain and only meaning which can be attached to the treaty, *is and was Texas*. The treaty was made according to this map, and not by the divisions of Mexico, or Humboldt, Wislizenus, or any body else.

Would the Senator from New Jersey purchase a tract of land, and go through the solemnity of signing and sealing the deed for it, and make the seller sign also a map descriptive of the land purchased, describing it all as being on the north side of a well-known river, and then claim land on the south side of the same river to which he had asserted—pending the purchase—a title in behalf of another? No, sir, he would not do any such thing, and I do not think he is under any obligation to claim any more for the Government of the United States, than for himself; for, I can see no difference in the principle, whether applied to the action of the Government or of an individual. Well, sir, here is a claim set up by the United States, of which Texas had not the slightest notice until it was all determined on. Was it treating Texas fairly to give her no notice that you disregarded her claim to this territory? Was it dealing fairly with her during the war and the negotiations on the very subject to tell her that her boundary was recognized? Was it proof of a spirit of candor, not to say magnanimity, on the part of this Government to deceive her, not only by concealing facts, but by giving her false answers?

I regret that in this discussion the power of the United States, to teach Texas that there is a judiciary, has been alluded to. I regret that we have been told that if Texas dare to do any thing there is a "lion in the path." Texas, sir, I believe, will discharge all her obligations to the Constitution of the United States, in good faith. She will render cheerful obedience to all constitutional acts of Congress; but, however many "lions" you may place in her path, she will march forward to the assertion of her rights, undismayed by any authority which has its foundation in power, and not in justice and principles of right. I deny most emphatically what has been asserted elsewhere, and by some gentlemen here, that the Congress of the United States can regulate the boundaries of Texas. It is a fearful power to vest in the Congress of the United States, and no time could be better selected to show the danger to the very existence of the States, of such a power being placed in the hands of a Congress excited by sectional feelings than the present. I deny, with the highest respect for those who have expressed a different opinion,

that this question can ever come before the Supreme Court of the United States, without the consent of Texas. I shall not, however, enter into an argument upon that point at present. I regret, as I have before stated, that this Government has in this transaction been compared to a lion, as if Texas could be frightened out of the assertion of her rights by that comparison——

Mr. Dayton. I regret that a figure of speech I made use of has given such offence to the honorable Senator. He will recollect that I made use of it in relation to his own remark about the bravery and determination of the Texans, and that they would give up every citizen before they would yield, and so forth. It was in reference to that remark of his that I ventured to say that if they attempted any thing more than to enforce their civil jurisdiction—and I have too much respect for the people of Texas to suppose they would do any thing more—they might perhaps meet with a lion in their path.

Mr. Rusk. Then I hope that compromise, and reason, and justice will settle this matter, and not power. But the honorable Senator was not the only one who spoke of power. It was said elsewhere that it was the duty of the United States to hold this possession, and she knew how to do it; this was said when Texas took steps to extend her jurisdiction there. Under these circumstances, Mr. President, I say here in my place, and without excitement on the subject, that, if there is any title on the part of the United States, it never can be derived from the treaty, it never can trace its origin to the bond between the United States and Texas; it never can trace its origin to any of the negotiations between Texas and the United States, and the United States and Mexico. It must depend upon power; and I am more mistaken than ever I was in my life, if Texas does not assert her rights and extend her jurisdiction. This Government should exist, not by the power of the sword, and care should be taken how it unsheathes it to enforce obedience. This Government was never formed to exist by the sword. Despotic Governments may be sustained by such means, but this Government was formed to depend upon the affections of the States. When it loses those affections, and depends upon the sword for its existence, "its days will be few, and another will take its office."

On Wednesday, June 19, 1850, Mr. Underwood presented and advocated, in a speech of considerable length, the following amendment:

"And thereafter it shall be lawful for the said State of Texas, by bill or petition, to institute a suit against the United States in the Supreme Court, asserting the title of the State of Texas to the whole or any part of the territory lying east of the Rio del Norte or Rio Grande, in a line drawn due north from the source thereof to the 42d deg. of north latitude, now

claimed by the United States, under the treaty made with Mexico at Guadalupe Hidalgo on the 2d day of February, 1840; and in case the said court shall determine and decide that the State of Texas has the better title to the territory thus sued for, such decision shall be obligatory upon the United States.

"*Be it further enacted*, That, upon the filing of any bill or petition by said State of Texas, as aforesaid, it shall be the duty of the clerk of said court to place a copy thereof in the hands of the Marshal of the District of Columbia, who shall deliver the same to the President of the United States, and make due return of that fact to the said court; and the case shall stand for trial at the next ensuing term of said court, provided there be sixty days between the delivery of said copy to the President, and the commencement of the said term; and provided, also, that said court shall continue said suit from term to term, should it be necessary.

"*Be it further enacted*, That it shall be lawful for the President of the United States to employ two additional ——— to the Attorney General in the conduct and management of said suit on the part of the United States.

"*Be it further enacted*, That said court is hereby authorized to prescribe the mode of taking evidence, touching all matters which the Court shall deem necessary to inquire into; and to appoint one or more persons to obtain such evidence.

"*Be it further enacted*, That, in the event the State of Texas shall reject the terms in this act offered to her, and shall not, within —— months after such rejection, institute a suit in the Supreme Court, as is herein provided for, it shall then be the duty of the President of the United States to cause a suit in the name of the United States, to be instituted in said Supreme Court against the State of Texas, for the purpose of settling the title to the disputed territory."

Mr. Rusk. I hope the amendment will not be adopted, either with the modification suggested or without it. I do not intend to go into the controversy whether, under the Constitution of the United States, the Supreme Court has jurisdiction upon a subject of this description, but, with the utmost respect for gentlemen learned in the law, I must say that I do not believe the Supreme Court has any. If it has, or can ever assume jurisdiction, it must be under some provision of the Constitution of the United States. It cannot be done by mere legislative enactment; for how can a jurisdiction over a State which is not already given by the Constitution be conferred by a simple act of Congress?

Mr. Berrien. We cannot give jurisdiction to the Supreme Court, but we can call upon the Executive of the Government to cause that question to be determined.

Mr. Rusk. And that proceeds upon the ground that it is a settled fact that the Supreme Court has jurisdiction.

Mr. Berrien. That question will be presented for the decision of the Supreme Court, anterior to the decision of the question upon the title.

Mr. Rusk. And that must be done upon one of two suppositions—either that the Supreme Court has jurisdiction, or, if it has not, that it is necessary to give it that jurisdiction by the action of Congress.

Mr. Berrien. It proceeds simply on the ground that it is advisable to present the whole question to the decision of the Supreme Court—first to decide as to its jurisdiction, and then to decide on the question of title.

Mr. Rusk. Even with that explanation I am opposed to the entire amendment. I know that Texas will contend to the end, that the Supreme Court has no jurisdiction in the case at all, and cannot have any under the Constitution; and the illustration put by the Senator from Kentucky first up, shows to my mind conclusively, that Congress, without an enactment of this sort, would have no power to bring a suit in the Supreme Court of the United States to terminate this difficulty.

If the Supreme Court has jurisdiction, certainly the right to sue ought to be reciprocal. If I understand the position assumed, it is that the United States may sue Texas, but Texas cannot sue the United States without an act of Congress authorizing it to be done. This convinces me that the Supreme Court has not jurisdiction. The amendment offered by the Senator from Kentucky proceeds, too, upon another supposition; which is, that the possession which the United States sets up is *bona fide* and in good faith adversely to the State of Texas. Now, I contend that such is not the fact. It is directly at variance with the fact; I must say that I was astonished to see that ground assumed in a message from the President, laid upon my table the other day, which is taking a position different from the one taken in his annual communication. This gives a character to the controversy which it had not before, but of which I shall not now speak. This new idea of possession set up in behalf of the United States, is presumed by the amendment to be a possession in good faith. Now, if that was the possession of an individual obtained under such circumstances, I should have no hesitation in pronouncing it a fraudulent one. How was it obtained? Texas was annexed to the United States, with a question of unsettled boundary between her and Mexico. The United States became the judge, the arbiter, the trustee, if you please, and Texas surrendered the power of terminating this controversy between her and Mexico, into the hands of the United States. Every body knows that this authority could only be exercised by the treaty-making power of this Government. Well, sir, in this unsettled controversy, Texas claimed to the Rio Grande. Her claim was asserted in a way not to be misunderstood. It was asserted, and was continued to be asserted for a number of years. It was not only asserted by Texas in the face of the world, but it was recognised by every act and step that this Government took for the purpose of annexing Texas. Mexico had her claim, and what was it? That her jurisdiction extended to the Sabine. Here, then, was this territory between the Rio Grande and the Sabine, constituting the subject matter of dispute, which the United States claimed only under the joint resolution of annexation as the State of Texas.

Now, sir, is it possible to conceive, on any known principles that have ever guided courts of equity or law or conscience, heretofore, that the United States could, upon any pretext of plausibility, acquire and set up such a claim as is now asserted and enforced? The thing is altogether preposterous. And, sir, if there was any one cause stronger than another, in the transaction of making this treaty of Gaudalupe Hidalgo, that would preclude the United States from ever coming in and setting up a title to any part of the territory upon which she had agreed to adjudicate, between Mexico and Texas, it is this. But this is not all. How did she get possession of this territory? She attempted, in the first place, to negotiate, and Mexico refused; she did not abate a single foot of her claim to the Sabine. No act of hers shows that she ever gave up any portion of that ground, until the United States took possession of the lower part of the Rio Grande—the point in dispute. Mexico immediately took up arms against the United States, for what she considered an act of aggression, and the war ensued, during which General Taylor stationed a company at Laredo, several hundred miles above the mouth of the Rio Grande, for the purpose, as he stated, of "enabling Texas to extend her jurisdiction with more facility to the river." Then, sir, on what claim did the United States proceed to take possession of Santa Fe? None whatever, unless it was by the same claim on which they took possession of the lower Rio Grande. They had no claim there. They had not even the shadow of a claim, as against Mexico, unless it was a part of the State of Texas—none on earth. In proof that they did take possession of it under cover of the claim of Texas, soon after the possession was taken, the Governor of Texas demanded to know of the Executive upon what ground possession was taken, and he replied, in substance, that it was under the claim of Texas; because, he stated, that the government established by Gen. Kearny was temporary, and must terminate as soon as a treaty was made. He said that he "regarded the claim set up by Texas to the Rio Grande, from its mouth to its source, as being well founded."

Well, now, sir, could the United States, in honor, under such an assurance as this—could they, in justice and according to the principle of common honesty, as understood between man and man, set up a claim, in their negotiations, after having deceived Texas by a false statement—for it must have been a false statement, seeing that they attempted to acquire the territory after that statement was made—could they, without notice to Texas, go to treating upon a matter in which Texas had confided the whole power to them to settle the difficulties between her and Mexico—could they, under such circumstances, acquire title for themselves? In dealings between man and man, such a course would not be sanctioned. Such a principle would be reprobated every where. And if such a course would be reprobated in an individual, it is equally reprehensible in a Government, for I can see no difference. Nay,

if any thing, it is much more reprehensible in a Government, especially a Government strong and powerful compared with one composed only of a few thousand individuals and exhausted by a long war. I can see nothing in the character of these parties, and especially in the character of the Government of the United States, that relieves it from the observance of the plainest principles of common honesty. But, sir, this is not all. The United States are not liable to this charge, upon a fair interpretation of the treaty which they have made. By the treaty, territory was acquired by the United States from Mexico, not as organized States, but simply as territory under the term New Mexico. No political organization passed; the inhabitants came in as individuals, not as an organized community. No claim can be set up in the name of New Mexico. Then I say that the name "New Mexico" is descriptive of territory, and territory alone. Well, sir, what does your treaty show? Point out to me in that treaty one foot of soil described as "New Mexico," on the east bank of the Rio Grande, and I will surrender the question to the decision of your Supreme Court in a moment. But, sir, there is no such thing there, none. I defy its production. I defy any fair interpretation of the treaty to carry the idea for a single moment that the United States acquired any title adverse to the claim of Texas. On the map the claim of Texas is recognised as extending to the Rio Grande.

Well, sir, in what condition does the question present itself now? The United States had declared that *all the vacant lands within the limits of Texas should belong to her for the purpose of paying her debt.* Now, this is vacant land within the limits of Texas, and the Government of the United States hold it under a possession thus obtained—a possession obtained by a treaty which does not describe a foot of the land, and which Texas was assured should not violate her claim in the slightest degree. It was under these circumstances that possession was obtained; and now the President of the United States says he must hold this land until the question of boundary is settled by a lawsuit.

Sir, I am anxious to settle this, together with all other distracting questions. I will make great sacrifices to do it. I know that Texas is willing to make sacrifices; and, in the provisions of this bill, she is required to make greater sacrifices than any other party. But, sir, while she will do this, she has been annexed upon an equal footing with the original States. She demands at your hands that she shall be so treated. This claim is, in my opinion, fraudulent, unfounded, and was obtained by concealment of real intentions—for no man can read the resolutions of annexation—no man can read the answer of the President of the United States to the Governor of Texas, and then say that the facts were not concealed from Texas. If this title is to be held good against Texas, and she is to be turned over to the litigation of your courts, let it be so. Texas may submit to it; but, sir, I

think she will not be willing to bring such a disgrace upon this country as to submit tamely and quietly. You may force her to it; you may drag her before your Supreme Court and degrade her as a sovereign State; you may wrest her territory from her hands; but, in my opinion, you will never do it upon any just principle, and if it is done, it will be done only by the exercise of power.

Mr. BADGER here rose and expressed his regret that any excitement should exist, or that hard names should be used, in reference to a matter which he regarded as an honest difference of opinion. He wished to know how this difference of opinion was to be decided. If, as suggested, a case were made for the Supreme Court and the title of Texas were clear, there would be no difficulty; then why should the Senator object? So far as he was concerned, the more territory given to Texas the better, but the question before the Senate was one of strict right, and not of preference.

Mr. FOOTE made a remark or two.

Mr. BADGER replied, and again expressed his regret at seeing the Senator from Texas so much excited as to use such strong language, but did not think it would be an act of robbery on the part of the United States to dispute the title of Texas.

Mr. RUSK. I may have used strong language. I think it very probable that I did. But I think my cause to some extent justifies it. For upwards of two years, when I have been asking for a post route or any thing of that kind for this portion of Texas, the question has been always raised by those who set up the claim on the part of the United States. The claim has been set up, but no facts nor arguments have been adduced to show upon what it is founded. The Senator from Maryland and the Senator from Vermont, I believe, before the treaty with Mexico, denied the right of Texas, but they showed no claim of the United States; the Senator from New Jersey is the only one, who, after the treaty, has undertaken to show the title which the United States sets up. Judgment after judgment has been pronounced in favor of the United States against the claim of Texas. But the facts upon which they were founded, or the reasons for them, have not been given. This matter is of importance to my State; she is not, like the United States, blessed with a full treasury. Texas is poor, is in debt, and this is her only means of paying her debt. When judgment is thus pronounced against the claim of Texas, and no title is shown on the part of the United States, there is some little excuse for terms which, I confess, I do not usually indulge in.

But there is another thing, coming from a high quarter, worthy of consideration. I read from the President's message of the 17th of June, 1850:

"I have already, in a former message, referred to the fact that the boundary between Texas and New Mexico is disputed. I have now to state that information has been recently received, that a certain Robert S. Neigh-

bours, styling himself commissioner of the State of Texas, has proceeded to Santa Fe with a view of organizing counties in that district under the authority of Texas. While I have no power to decide the question of boundary, and no desire to interfere with it as a question of title, I have to observe that the possession of the territory into which it appears that Mr. Neighbours has thus gone, was actually acquired by the United States from Mexico, and has since been held by the United States, and in my opinion ought so to remain until the question of boundary shall have been determined by some competent authority. Meanwhile, I think there is no reason for seriously apprehending that Texas will practically interfere with the possession of the United States."

Here it is plainly intimated that Major Neighbours, "*styling himself commissioner of Texas,*" (a lawyer's phrase,) could not get possession, and that the power of the United States would be used to keep possession. Although I do not often read Roman history, yet I will be excused for reading a passage or two very much in point:

"This honorable victory obtained over their enemies, the people disgraced at home, by a scandalous decision of a dispute concerning the boundaries of their allies. The people of Aricia and those of Ardea had often contended in arms the right of property to a certain district of land, and, wearied by many losses on both sides, referred the affair to the arbitration of the Roman people. Both parties attended to support their claims, and an assembly was held by the magistrates at their request. Here the matter was debated with great vehemence; and after the witnesses had been produced, when the tribes ought to have been called, and the assembled proceed to give their suffrages, there arose one Publius Scaptius, a plebeian, a very old man, who said, "Consuls, if I may be permitted to speak on a matter which concerns the interest of the commonwealth, I will not suffer the people to proceed in a mistake with respect to this affair." The consuls saying that he was not worthy of attention, and should not be heard, he exclaimed that the cause of the public was betrayed, and, on their ordering him to be removed, called on the tribunes for protection. The tribunes, who in almost every case are rather ruled by than rule the multitude, to gratify the populace, gave liberty to Scaptius to say what he pleased. He then began with informing them that 'he was in his eighty-third year; that he had served as a soldier in the very district in dispute; and was not young even then, that being his twentieth campaign, when the operations against Corioli were carried on. He could, therefore, speak with knowledge of an affair which, though after such a length of time it was generally forgotten, was deeply fixed in his memory. The lands in dispute, he said, had belonged to the territory of Corioli, and when Corioli was taken, became, by the right of war, the property of the Roman people. He wondered by what precedent the Ardeans and Aricians could justify their expectations of surreptitiously wresting from the Roman State, by making it an arbiter, instead of proprietor, its right to a tract to which, while the State of Corioli subsisted, they had never advanced any kind of claim. For his part, he had but a short time to live; yet he could not prevail on himself, old as he was, to decline asserting by his voice, the only means then in his power, a title to those lands which, by his vigorous exertions as a soldier, he had contributed to acquire; and he warmly recommended it to the people not

to be led, by improper notions of delicacy, to pass a sentence subversive of their own rights."

"The consuls, when they perceived that Scaptius was heard not only with silence, but with approbation, appealed to gods and men against the infamy of the proceeding; and, sending for the principal senators, went round with them to the tribes, beseeching them 'not to be guilty of a crime of the worst kind, which would afford a precedent still more pernicious, by converting to their own use a matter in dispute, whereon they were to decide as judges; especially when, as the case stood, although it were allowable for a judge to show regard to his own emolument, yet the utmost advantage that could accrue from the seizure of the lands would by no means counterbalance the loss which they must sustain in the alienation of the affections of the allies by such an act of injustice; for the loss of reputation and the esteem of mankind are of importance beyond what can be estimated. Must the deputies carry home this account? Must this be made known to the world? Must the allies, must the enemy hear this? What grief would it give to the former, what joy to the latter? Did they imagine that the neighboring States would impute this proceeding to Scaptius, an old babbler in the assemblies? This indeed would serve, instead of a statue, to dignify the Scaptian name; but the Roman people would incur the imputation of correct chicanery and fraudulent usurpation of the claims of others; for what judge, in a cause between private persons, ever acted in this manner, adjudging to himself the property in dispute? Surely, even Scaptius himself, dead as he was to all sense of shame, would not act in such a manner.' Thus the consuls, thus the senators exclaimed; but covetousness, and Scaptius, the instigator of that covetuousness, had greater influence. The tribes, being called, gave their judgment that the land in question was the property of the Roman people. It is not denied that it might with justice have been so determined, had the matter been tried before other judges; but as the affair was circumstanced, the infamy of their determination was in no degree lessened by the equity of their title; nor did it appear to the Aricians and Ardeans themselves in blacker or more hideous colors than it did to the Roman Senate. The remainder of the year passed without any commotion either at home or abroad."

I hope the decision on this matter will not make the cases parallel. This decision of the Romans was afterwards reversed and the land surrendered to the rightful owner, which I trust will also be the case in regard to Texas.

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SPEECH

OF

MR. TURNEY, OF TENNESSEE,

ON

THE COMPROMISE BILL.

DELIVERED

IN SENATE OF THE UNITED STATES, WEDNESDAY, JUNE 5, 1850.

WASHINGTON:
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1850.

THE COMPROMISE BILL.

The Senate having resumed the consideration of the bill to admit California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and nothern boundaries—

Mr. TURNEY said: Mr. President, my object is not so much to discuss the particular merits of the amendments as it is to notice an article relating to myself, and others who act with me, which appeared in the "Union" of yesterday. I, with others, am arraigned before the country as being opposed to this bill, upon the simple ground of the particular provision which it is proposed by the Senator from Mississippi to amend. But I will read an extract of the article. It says:

"It is well know that the Clayton compromise received the votes of the strict State-rights men from the South in the Senate and in the House of Representatives; that the mass of southern politicians, without distinction of party, voted against Mr. Stephens's motion to lay it on the table; that in the House of Representatives but eight southern men sustained that motion—all of them Whigs—and that the South fully and entirely sustained the compromise, and denounced those who aided the North in defeating it as traitors to her cause. That compromise was passed to its third reading in the Senate of the United States by the following vote. We ask particular attention to the names recorded:

"The yeas were: Messrs. Atchison, Atherton, Benton, Berrien, Borland, Breese, Bright, Butler, Calhoun, Clayton, Davis of Mississippi, Dickinson, Douglas, Downs, Foote, Hannegan, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, King, Lewis, Mangum, Mason, Phelps, Rusk, Sebastian, Spruance, Sturgeon, Turney, Wescott, and Yulee.

"Among the nays we see the names of Messrs. Baldwin, Corwin, Davis of Massachusetts, Dayton, Dix, Hale, and Niles, the Van Buren Free-Soiler. These men are consistent. How comes it, then, that Messrs. Borland, Butler, Davis of Mississippi, Hunter, Mason, Turney, and Yulee, vote with them now? But we anticipate, and therefore ask two other questions. They are—

"1. What propositions relative to slavery were these gentlemen voting for in 1848? and

"2. What proposition relative to slavery is now pending before the National Legislature?

"We will answer these questions by stating the provisions touching slavery in the new territories, embodied in the Clayton compromise; and then, by stating the provisions touching the same subject, embodied in the plan of adjustment now before Congress.

"Looking to the Clayton compromise, which passed through the Senate by the vote we have given above, we find the following provision relative to the territorial governments therein established, to wit, that the legislative power of the said territories—

"'Shall have power to pass any law for the administration of justice in said territory which shall not be repugnant 'to this act, or inconsistent with the laws and Constitution 'of the United States. But no law shall be passed respecting an establishment of religion, *or respecting slavery*, or 'interfering with the primary disposal of the soil; and no 'tax shall be imposed upon the property of the United States; 'nor shall the lands or other property of non-residents be 'taxed higher than the lands or other property of residents. All the laws shall be submitted to the Congress 'of the United States, and, if disapproved, shall be null and 'void.'

"Such is the Clayton compromise, as far as the slavery question is concerned, and for which the gentlemen whose names we have given, recorded their votes, about 8 o'clock, a. m., on Thursday, July the 27th, 1848.

"Let us now examine the provision touching slavery embodied in the proposed adjustment, which some of those same gentlemen now oppose with bitter vehemence. It reads as follows, applying to Utah and New Mexico:

"'*And be it further enacted*, That the legislative power 'of the territory shall extend to all rightful subjects of legislation consistant with the Constitution of the United States 'and the provisions of this act; but no law shall be passed 'interfering with the primary disposal of the soil, *nor in respect to African slavery*; no tax shall be imposed upon the 'property of the United States; nor shall the lands or other 'property of non-residents be taxed higher than the lands or 'other property of residents. All the laws passed by the 'legislative assembly and governor shall be submitted to the 'Congress of the United States, and, if disapproved, shall be 'null and of no effect.'

"Now, we ask our readers to compare this provision with that we have quoted from the Clayton compromise of 1848, and tell us the difference between them, so far as the question of slavery is concerned. We have compared them carefully, for the purpose of detecting any discrepancy; and after mature deliberation, we can see nothing, except that the Clayton compromise forbids the passage of any law '*respecting slavery*,' while the proposed adjustment forbids the passage of any law '*in respect to African slavery*.' We must confess it requires better eyes, or worse than ours, to see any real difference between the two provisions."

I propose to show that this allegation is palpably untrue. In fact, so far as the reason of my opposition is concerned, I assert it to be positively untrue. Although I am in favor of the amendment proposed by the honorable Senator from Mississippi, yet if that amendment should fail, and other important amendments be made, I will give my vote for the bill, however important I regard the amendment of the Senator from Mississippi.

The editor of the Union places himself before the country as a sort of high-priest of the Democratic party, and proposes to read out of it certain members of that party because they choose not to obey his dictation and commands; because they choose to think and act for themselves; because they choose to represent their constituents and not represent Mr. Ritchie. In that article he has printed the vote on what is called the Clayton compromise bill, which passed this body two years ago, and very correctly places my vote in favor of its passage. And he then propounds the interrogatory, "what is there in this bill in relation to the great question of slavery that was not in the bill for which these gentlemen voted two years ago?" He then goes on, and attempts to show that the

two bills are precisely the same, and that there is in fact but the difference of one word, according to his account. He professes to give an account from the record, which I shall show before I have done to be palpably untrue. What are the differences, then, in point of fact between this bill and the one for which I voted, the "Clayton compromise bill," two years ago? Why, sir, that was exclusively a territorial bill. This is a territorial bill and a State bill—a bill to admit a State as well as to provide governments for the territories. The former was nothing more nor less than a territorial bill; and its only provision was to create territorial governments for the territories of Oregon, California and New Mexico. That bill was founded, in my judgment, upon the non-interference doctrine fully and completely, and prevented the territorial government from legislating upon the subject of excluding slavery from the territories, leaving the rights of the southern people dependant upon the constitutional laws of the United States, upon which we were then and are now perfectly willing to risk our rights. If we have no constitutional rights, there is no use in saying anything about the matter, as I have no hopes of any justice at the hands of the North. But if we have constitutional rights, we desire that they should be protected and given to us. The Clayton compromise bill did this. It stood upon the non-intervention doctrine. It provided a speedy remedy for the adjustment of the question whether slavery should or should not exist in the territories. That bill left the matter to the Supreme Court, and thus every right given by the Constitution was completely secured to the South.

How is it in relation to the bill now before us? For I propose to respond very briefly to the interrogatory put by the would-be high-priest of the Democratic party. How does this bill stand? Why, sir, there is a provision for the admission of a State into the Union, and that State, too, containing the identical territory to which the Clayton bill gave a territorial government, and embracing all the territory which I regard to be of much consequence or importance, with a provision prohibiting slavery within the limits of that State. But if that were all, the bill would not be so very objectionable. But, further, what is the measure into the support of which Mr. Ritche tries to whip the Democratic party in this body? This bill includes territory enough within the limits of the proposed State of California to constitute at the lowest calculation three States, one or two of them south of the Missouri compromise line, 36° 30′. And this, too, when it is proposed that this State of California, with this immense boundary, shall be admitted, not for the purpose of its remaining one State, for no man contemplates any such thing. None believe that California is to remain for all time to come one State, with such immense limits. The friends of the bill contemplate no such thing. The chairman of the committee that reported this bill has proclaimed to the Senate and to the country, that at a subsequent period, whenever it may be deemed necessary, other States may be admitted from the State of California. In the mean time the constitution of that State is to answer the important purpose of the Wilmot proviso to the surplus territory within that State. That constitution is to prohibit slavery, and make it perfectly certain that whatever States may be formed out of California, they will come into the Union as free States; for it is provided by the Constitution of the United States that no State shall be divided into two or more States without the assent of said State. It would then require the assent of both States—that is, of the people forming the new State to be admitted from California as well as of the people of the State of California. The State of California would never give her consent to forming a slave State out of her territory, after she herself had been admitted as a free State. I take it, then, that so far as the admission of California is concerned, with her present boundaries, it is nothing less than the Wilmot proviso in its most effective, and therefore most odious and offensive form. Offensive, because, being in the form of a State, we cannot test its constitutionality, as we could and would do if applied to a territorial government, and yet the effect, if not the exclusive object, is to exclude slavery from territory hereafter to be admitted as a State or States. There is, then, some difference between the Clayton compromise bill, and that now before us, called by Mr. Ritche "the adjustment."

The Clayton compromise bill left Texas the enjoyment of her rightful boundaries. It only proposed to provide governments for the territories of Oregon, California, and New Mexico.

The Clayton compromise bill did not propose to purchase from Texas some ten degrees of territory, and enough of it south of 36° 30′ to form at least two additional States, which, if permitted to remain in the State of Texas, would remain slave territory, and which, if admittad into the Union from the State of Texas, will inevitably be admitted as slave States. But if we takc them from under the constitution of Texas, and put them into a territory subject to the Wilmot proviso, we would enlarge the subject of contention, and they will be finally admitted as free States. Here is a proposition, then, which did not exist in the Clayton compromise bill, of taking from under a slave constitution ten degrees of territory, and converting it into free soil. There was no such proposition as that in the Clayton compromise bill. And what further is there in this bill? True, the amount of money to be paid for converting this slave territory into free territory is left blank—ten or fifteen millions will, perhaps, be proposed. It is, then, proposed to make the people of the South pay ten or fifteen millions—and pay it for what purpose? for what benefit? In order that this immense territory shall be taken from them and converted into free territory. Mr. Ritchie can see nothing in all this; he cannot, for his life, perceive any difference between this bill and the Clayton compromise bill.

Mr. Ritchie publishes an extract from the Clayton compromise bill, and then from the bill now under consideration. The extract which he publishes from the Clayton compromise bill, reads as follows:

"No law shall be passed respecting the establishment of religion, or respecting slavery, or interfering with the primary disposal of the public lands."

He says that the only difference between the two bills is the insertion of the word "African" before the word "slavery" in the bill now under consideration. He then goes on to show that this is the only difference between the two propositions.

Mr. President, I propose to show that there are

palpable errors—to call them by no worse name—in this bill. The only difference that Mr. Ritchie can perceive between the two bills is that in one bill the territorial legislature was prohibited from legislating "on the subject of slavery," and in the other "on the subject of African slavery." On looking at the Clayton compromise bill, a true copy of which I have procured from the Secretary, I find that the provision is in these words:

"But no law shall be passed respecting the prohibition or establishment of *African* slavery."

The Clayton compromise bill was reported in language identical to that of the bill now under consideration. The Senate, including myself among others, was dissatisfied with this identical language, which Mr. Ritchie has fallen so deeply in love with. A majority of the Senate, being dissatisfied with the language of that bill as reported, struck it out, and inserted what I have just read to the Senate. Mr. Ritchie did not then undertake to denounce the whole Senate for thus amending the bill. He did not then perceive that the Senate had done wrong. He did not then complain of the action of the Senate; but now, sir, he complains most lustily, and he gives us what he calls a true record, when it turns out that he has not examined the record, or, if he has examined it, that he has given a false or untrue account of it.

Mr. Ritchie, at his own pleasure, assigns reasons for the conduct of gentlemen who have acted with me in opposition to this bill. I would repeat that, so far as I am individually concerned, the reasons assigned by him are untrue, and have not the semblance of truth to sustain them. I consider the amendment of the Senator from Mississippi as a great improvement of the bill; but my vote shall not depend upon the adoption of that amendment, because if it be rejected and other important amendments be made, I shall vote for the bill.

But, sir, Mr. Ritchie proceeds in his article and says:

"This is history, for it is derived from the public records; and yet, strange to say, some of the gentlemen who, less than two years ago, sustained the Clayton compromise, and denounced before their southern constituencies those who defeated that compromise, are now moving heaven and earth to defeat an adjustment, *giving, as their principal reason, a clause identical with the similar clause of the Clayton compromise. Taking all these things into consideration, what are we to think?* The friends of the proposed adjustment have expressly told its enemies from the South, that they were willing to strike out the feature touching slavery, which some gentlemen from the South (who had voted for the same feature in the Clayton compromise) objected to, and that they were willing to remove their new-found objections, by admitting Mr. PRATT's amendment. But even that has not proved satisfactory. *It is all a mystery—all a mystery—which arrays southern Slate-rights men in the Senate side by side with Messrs. Hale, Chase, and Seward, under the lead of Colonel Benton*, and arrays southern Slate-rights men in the House of Representatives by the side of Root, Wentworth, Wilmot, and Horace Mann, under the lead of Joshua R. Giddings."

Sir, it is not true, either, that we are attempting to move heaven and earth. We are not so vain, or so wicked as to attempt either. How Mr. Ritchie should ascertain that I was opposed to the bill, is a matter wholly unknown to me. Certainly I made no speech here against it; certainly I have not heretofore expressed my opposition to it, in the course of this debate. I have never before opened my mouth in relation to the subject, except in relation to the report of the Committee of Thirteen, which constitutes no part of the bill. Yet Mr. Ritchie assumes to assign for my opposition a reason which I repudiated, and which I shall show to be untrue. The article then proceeds to say, "taking all these things into consideration, what are we to think? I think it is a pretty hard question to answer, what we are to think, when we look to the gross misrepresentations and false record presented to the country, of the reasons assumed by him for others, which reasons are not true. I think, sir, we might well exclaim, in his own language, "that in view of all these things, what are we to think?" [Laughter.] He then goes on to say:

"It is all a mystery—all a mystery—which arrays southern State-rights men in the Senate side by side with Messrs. Hale, Chase, and Seward, under the lead of Col. Benton."

Well, Mr. President, I should regard it as a very great mystery if I were to be thus arrayed. Mr. Ritchie seems to have forgotten that "those who live in glass houses ought not to throw stones." Where does he stand? Where is he now to be found? Where is he who arraigns me and others for the company in which we find ourselves? Why, sir, he is *not* side by side with the distinguished Senator from Kentucky, [Mr. CLAY,] and the distinguished Senator from Massachusetts, [Mr. WEBSTER,] for they would not let him stand there, but he is attempting to hang on to their coat-tails. [Laughter.] He has forgotten his old position. He has left his old friends. He, too, is found in strange company, and advocating and supporting strange doctrines. Before, therefore, he undertakes to reprimand others, he had better look a little at home, and see how he stands in relation to his own course. But, sir, if I am to be found at all with the company here mentioned, it will be only in a single and solitary vote; and, after that vote shall have been given, we shall stand as wide apart as the poles. How long is it since Mr. Ritchie was rallying and fighting under the banner of the Senator from Missouri, [Mr. BENTON?] How long since he abandoned his company? How long since he commenced denouncing him? How long has it been discovered to be unpardonable to be found in company with the Senator from Missouri, [Mr. BENTON?] Very recently, I take it; for I have heard that Mr. Ritchie would not publish, until very recently, extracts from papers in Missouri disapproving of the course of the Senator from Missouri. Nothing of the kind could ever find its way into Mr. Ritchie's paper until very recently, when he found it was expedient to denounce that Senator; and, since that time, he has even denounced others if they gave a solitary vote with him. Does he not know that Mr. BENTON approves every word in this bill, and would support every provision of the bill if presented as separate measures, and that he only objects because they are blended in one bill? So that, in substance and measures, Mr. Ritchie is acting with Col. BENTON, while I, for the sake of principle, am fighting them both. He denounces me for voting with Col. BENTON.

In relation to those other gentlemen enumerated here with whom it is alledged I stand side by side, I deny it; I repudiate them. I have one declaration to make to Mr. Ritchie and to the country, and I hope that my constituents will read it and ponder over it, and if it is unworthy of their representative they will repudiate me. I stand here to advocate and defend their rights, and in the examination of great measures and great principles, I am not to be

induced to vote in a particular way because that would bring me in company with particular gentlemen. I am not one of those who would vote against a bill because certain other gentlemen chose to vote for it. I would rather act with Satan himself, and be right, than act with the best man that ever lived and be wrong. I shall examine all measures submitted for my action in this body on their own merits, and I shall cast my vote according to my judgment of the merits of every measure, without looking to see who votes for it or who votes against it. Mr. Ritchie may not be able to appreciate this, or he may think the people of the country so remarkably stupid and ignorant that they can be rallied for or against a measuse on account of the men who vote for or against it. Sir, he is mistaken. He underrates the intelligence of the people, who look at these measures for themselves.

The people will form their opinions for themselves; and no matter who votes for or against, they will never fail to use every effort to prevent the passage of an obnoxious or unjust law, or to secure the passage of a beneficial and just one.

Mr. President, I have now answered the main points in the charge of Mr. Ritchie against me and others, and have answered them truly, at all events. I am willing to go before the country with my response. I would say here that this is the only mode by which anything favoring the position which I and those who act with me occupy can go to the country. In other words, the only mode by which anything in opposition to this measure can reach the people is by a speech delivered on this floor. Every press, excepting the Republic—and that, I believe, stands neutral on this question—every press, or the two prominent presses, are out in favor of this measure. All three were in favor of it at one time. This paper of Mr. Ritchie particularly has become very warm and zealous for it, and has even denounced southern Democrats who find fault with it, and undertakes to read them out of the party, because they will not blindly support a measure which their judgments condemn. How stands this matter? What is the relative strength of the bill with the southern Democracy of this body? According to my estimate there can be found but five southern Democrats in favor of it. There are certainly eleven opposed to it. And while there are eleven against and five for the position of Mr. Ritchie, he undertakes to denounce the eleven, and read them out of the party.

Mr. FOOTE. Will the honorable Senator allow me for a moment?

Mr. TURNEY. Certainly.

Mr. FOOTE. If I understand their position, not one of the honorable Senators from the South, to whom allusion has been made, has declared himself to be entirely opposed to this measure. They were all very particular in declaring that if certain amendments were made they would favor the measure. I now beg leave to say to the honorable Senator that, so far as I am concerned, I am in favor of amendments, and have been from the beginning of this controversy down to the present moment. If reasonable amendments be made, I hope there will not be the least difference between the different Democratic Senators from the South on this measure. If the honorable Senator from Louisiana [Mr. SOULE] was correctly understood the other day, he was very far from being opposed to this measure *toto cœlo*, but declared himself to be in favor of it if certain amendments were made. I do not believe that there is one man on this side of the house who will not support this measure in the event of such amendments being made as will render it acceptable to all.

Mr. TURNEY. Mr. President, I really do not see the point of the explanation, neither can I conceive why it was necessary to interrupt me in order to make the explanation. I was speaking of Mr. Ritchie's article against me and others.

Mr. FOOTE. Did you not speak of Senators from the South?

Mr. TURNEY. I spoke of Senators from the South with a view only to show the number for and against the bill, and I repeated at least half a dozen times that I would be satisfied with the bill if certain amendments be made. I have gone further. I have gone on to show that, even if this amendment of the Senator from Mississippi [Mr. DAVIS] be rejected, yet if other important amendments be made I shall vote for the bill. I want to know who are the friends of the bill and who are not. When we speak of a bill, we speak not of a bill as it may be amended, but as it is on the table. I would say that there is not a man in America who would oppose this bill if it should be so amended as to suit his conveniences and views; not one. When I speak of this bill, I speak of it as it is, not of it as it may be amended or changed, for then it may become an entire new bill.

Mr. FOOTE. I am sorry to be under the necessity of interrupting the honorable gentleman again. Does the honorable Senator from Tennessee wish to be understood as declaring that, in his opinion, any friend of this bill has opposed reasonable amendments? Does he not know, does not the country know, that the honorable chairman of the committee of thirteen, in the beginning, and ever since, has offered no opposition to reasonable amendments? Has not the honorable Senator from Michigan [Mr. CASS] pursued the same course? Have we not all done so? Have not those of us who are in favor of the measure expected and desired that modifications would be made? Several, including myself, have declared their determination, at a seasonable time, to offer amendments. I understand, then, from the indications around me, that there will be no opposition to the bill, of an inflexible character, if it be properly amended.

Mr. TURNEY. I do not know exactly what the Senator means by inflexible opposition. I really do not know how to discuss the merits of a bill not before us. I will not discuss the merits of the bill as it may be after it shall have been amended, but as it is now. How are we to discuss what the bill will be after it shall have been amended, when we do not know how it will be amended? I was not speaking of the conduct of Senators at all. I was speaking of the course of this high-priest, or rather of this man who would be high-priest of the Democratic party. He seems to speak, or assumes to speak, by authority; and that authority is that no amendment will be made. He has denounced us because we want amendments to this bill. We are denounced because we will not vote for this bill unless it be amended, not because we are not in favor of passing some bill. We are denounced because we do not take this

bill as it is, as it comes from the hands of the committee. That is what we are denounced for. It was to that point, and to that point alone, that I was calling the attention of the Senate and of the country. I am anxious to vote for the settlement and adjustment of the whole question, and am anxious to vote for this bill, if it be amended so as to make it acceptable to me. I have written letters home to this effect. I have gone so far as to express the hope that amendments would be made which would enable me, and all other true men of the South, to give this bill our hearty support. I have expressed this hope in letters to my constituents. I did not charge any one here with a desire to defeat amendments. I am willing to believe, and hope, that a majority will be found in favor of placing the bill in a shape to make it acceptable to the southern people; but whether the friends of the bill will permit it to be so amended, time alone will show. What, let me ask, is the great bone of contention? What do the southern people desire?—I mean those of them that act with me, and entertain my opinions. Is there any man in the South, to be found anywhere, call him a Calhounist, call him a disunionist, or any other opprobrious term, if you choose—I challenge Mr. Ritchie, and others who take his position, to point me to a solitary man who acts with me, who demands for the South any more than the Constitution guaranties. Is there any man that demands for the South more than equality with the people of the North? Has any southern man proposed to exclude the northern people from migrating to the territories? Has any such idea as that been advanced or advocated by the southern people? No, sir; far from it. All they ask, and all they ever have asked, is their constitutional rights; that they shall be permitted to enter the territories with their property, upon an equal footing and with equal rights with their brethren of the free States. This is all they ask. They ask no more than that. And anybody who supposes that the South will submit to anything less, greatly under-estimates the people of the South. They claim to be freemen, and they claim that the Constitution was as much made for them as for the people of the North.

But Mr. Ritchie says that the integrity and nationality of the Democratic party must be preserved, and it can only be preserved by a total sacrifice of all these rights of the southern people. And because I, for one, will not agree to this sacrifice, does he hold me up and denounce me.

Now, I ask what Senators mean when they talk to you of extreme South and of extreme southern men? Will gentlemen point me to any unreasonable demand made by southern men? The Constitution of the country makes them equal to the North, and they would be degraded and disgraced, were they to consent to be anything less. I hope they will never consent to surrender any portion of their constitutional rights.

Mr. Ritchie has taken occasion, also, to denounce the Missouri compromise line. He denounces it, and denounces all those who advocate it. Why, sir, Mr. Ritchie has gone for north of 36° 30′ himself. Reduce California to the line of 36° 30′; run the line through Texas; compensate Texas for whatever you may purchase of her territory, and then organize territorial governments founded upon the non-intervention doctrine, and I will vote for the bill. Will we gain nothing by that? We know that we will gain at least two southern States in Texas. There will be no dispute in relation to that. If that part of the territory of Texas remain under a slave constitution, be kept under it, it will come into the Union as a slave State. We *know* that, and we know further, from the signs of the times, that if this part of the territory of Texas be taken from her, and put under the territorial form of government, it is destined to come into the Union as a free State. There is the power to accomplish it. If the southern boundary of California be reduced to the line of 36° 30′, territory enough will be left south of that line to form one State at least, with an equal chance of making it a slave State, which is all that the South can ask or demand. There is not a southern man who would demand to the letter the constitutional rights of the South. I defy Mr. Ritchie, I defy any one else, to designate a solitary man in the South who demands his full share of constitutional right. If the South were to demand that, they would not only demand that the Wilmot proviso should not be spread over the territories, but they would require that any obstruction, any difficulties, growing out of any doubt in relation to the laws of Mexico, ought to be removed at once, and that the right to carry slaves into the territories should be recognized by this Government. They would do this, if they demanded all their constitutional rights as equal citizens of this Union. I undertake to say, therefore, that Mr. Ritchie has no right to read two-thirds of the Democratic party of the South out of that party for differing with him, and for maintaining the rights of the South. I believe that the Democratic party are governed by democratic republican doctrines. We might have a right to turn Mr. Ritchie out, but he has none to expel us. I shall, therefore, still regard myself as belonging to the Democratic party, and shall continue to act with it, regardless of Mr. Ritchie. I will conclude, by saying, that I hope and trust the time is not far distant when there will be a press in the city of Washington that will do some little justice to the people of the South, and will appeal to the country in their behalf.

THE COMPROMISE QUESTION.

SPEECH

OF

MR. DODGE, OF IOWA,

IN SENATE OF THE UNITED STATES, MAY 28, 1850,

In reply to Mr. HALE, *of New Hampshire, on the Compromise Bill.*

Mr. DODGE said:

Mr. PRESIDENT: The gentleman from New Hampshire [Mr. HALE] has, upon the present and on former occasions, taken it upon himself to lecture the Senators from the free or northern States; calling upon them, in his usual bold and significant manner, whenever he apprehended any probability of a settlement of this miserable, sectional controversy, to have an eye to their lords and masters at home—admonishing them, in direct terms, that although their residences are in a frigid country, some of them, on their return home, may be found too hot for comfort. He has announced, that there are Senators from fifteen sovereign States of this Union, who are instructed to vote for this famous Wilmot proviso. Does he intend, by assertion or implication, to say that my colleague or myself are instructed to go for the "Wilmot?"

Mr. HALE. I did not mean to include Iowa.

Mr. DODGE. I did not hear the Senator pronounce the name of Delaware, nor could he now properly include, in his category, Michigan; but all this is immaterial. I rose, Mr. President, to say, as well to my constituents as to the Senate, that I am one of those from a free or northern State, who have determined not to march under the *oriflamme*, or serve in the army commanded by the gentleman from New Hampshire, in this or any war nurtured by fanatical blindness and sectional animosity. And more, sir; I want the people of Iowa, to whom I am accountable for my acts and opinions, to know that there is another gentleman, on the opposite side of this Chamber, in the vicinity of the gentleman from New Hampshire, [alluding to Mr. SEWARD,] who has advanced certain doctrines congenial with those of the Senator from New Hampshire, touching the institutions of this Government and the subject which has so unnecessarily and unfortunately divided the people of this Republic, whose doctrines I will oppose here and elsewhere. I have not only no sympathy for those new-fledged and transcendental opinions and doctrines of these Senators, but I intend to fight them here and everywhere, as long as I have a voice or a vote. And, sir, in my humble judgment, the time has come when the representatives and the people of the non-slaveholding States, if they wish to preserve the integrity of the Union, must take a stand—a bold and determined stand, against the fell spirit of Abolitionism; which, encouraged by some temporary triumphs, growing out of the annexation of Texas and the war with Mexico, now everywhere unmasks itself, and seeks audaciously to control the voices and votes of the fifteen non-slaveholding

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States of this Union, and thus the whole Union. Here, sir, and everywhere, I take my stand against it and its ultra principles and kindred measures. I shall vote against the famous "Wilmot;" not that it is considered an Abolition measure, but because it was at first a fire-brand, and is now used as a mask, from behind which Abolitionism seeks to destroy the Constitution and the glorious temple of liberty, reared by the fathers of the Revolution, and which protects the people of these free and happy States from anarchy and despotism. Nor will I be deterred, Mr. President, from the performance of a high and holy duty, which I believe I owe to my country, by the denunciation that I am the supporter of slavery. No man, sir, is more opposed to it in the abstract than I am; but just as far as it forms a portion of the Constitution of my country, I will support it. Sir, the Senator from New Hampshire speaks of the beauties and glories of the ordinance of 1787, and wonders how, in this day of progress and enlightenment, there should be such a determined opposition to its reënactment. I think I can tell him. Sir, when, in '84, the immortal Jefferson first drafted that ordinance, and when he and his compeers, the Masons and other great men of Virginia, were exerting themselves gradually to get rid of the evils of slavery, there were then no intermeddling Abolitionists to check and deter them from doing what they believed to be best for mankind. For, sir, had there been, we can plainly see, from Mr. Jefferson's letter of 1820, upon the Missouri controversy, how different his course would have been; or, in other words, how soon he would have been driven, as hundreds of other far-seeing and philanthropic statesmen in the South have been, to take a stand for State-rights and the rights of property. Mr. President, I apprehend the early action of the Government, and that of the great men of the South, would have been what it now is, under a sense of wrong. Had the spirit of treason, in the shape of the original "Wilmot proviso," shown itself during our revolutionary war in the Congress of the Confederation, by way of amendment to war and supply bills, and in effect, if not so designed, striking down the right arm of the country during the existence of a bloody foreign war, and if adopted, inevitably driving from the battle-field those gallant men of the South who were facing the cannon's mouth, to close in glory that foreign war,—had treason, I say, shown itself in this shape, in "the days that tried men's souls"—a treason intended to cripple and disgrace our Government, and drive our armies ingloriously from the contest—I think the action of the statesmen of that era would have corresponded with that of those of the present time.

Sir, I say it with mingled feelings of pride and pleasure, the Democracy of Iowa, true to the honor and glory of their country, took their stand against the "Wilmot," during the recent war, and have triumphantly maintained it to the present day. They confronted this terrific engine of demagogues during the late presidential election—meeting it in every stage and in every phase which it has assumed, with determined hostility; whilst the Whig party—who were supporting and endeavoring to elevate to the chief magistracy the present President of the United States—were everywhere singing hosannas and pæans of praise in behalf of the beauties and glories of this notorious proviso. We went then, as we still go, for a national party with a common platform, upon which all Democrats, North and South, can meet and act together; and this harmonious action with our southern brethren we knew we could

never have unless this fire-brand was extinguished. We declared against everything of the sort, because we believed, whether it were so intended or not, that it would denationalize, divide, and ruin the great Democratic party, if not the country; and that it was advocated by men, in many of the States, for the sole purpose of riding into power and place upon a miserable sectional hobby. And, sir, if this spirit be not checked and stayed in its onward march, it will soon call upon me, in defiance of the dying words of Washington, to minister to this sectional strife—this local animosity—to vote for some real or disguised Abolitionist for President of this great Republic, simply because he is one, lives in a free State, and has mounted this free-soil hobby.

No, sir, no; I think I hazard but little when I say, that young and patriotic Iowa will enlist under no such banner and do battle in no such cause. We are Democrats, and, as such, are bound to believe that the intelligent freemen who may inhabit the territories are capable of self-government, and will take care of themselves and their own institutions, without conditions or restrictions being fastened upon them by this Congress.

The Senator from New Hampshire chooses to travel from the amendment under consideration, to denounce the several measures before the Senate which are intended to pacify the country. He hits the fugitive-slave bill a blow, and strikes at everything else connected with compromise and adjustment. Sir, the course of this Senator, [Mr. HALE,] and that of others, shows me, that it is not the "Wilmot," or the ordinance, or the good government of the people of the territories, that troubles them. They, sir, have other and ulterior views, and it is time that the patriotic and honest-hearted people of this country should know, that this slavery question has been seized upon by some persons to ride into high places. They are everywhere taking the most ultra ground, and such as must eventually and most inevitably destroy the Union, if they be sustained in it by the people of the States whence they come. This is not now, if it ever was, a question of the increase or extension of African slavery; but it is one of a much graver and more important character. It is a question of adherence to a written and wise Constitution, and also as to whether there shall be a total destruction and alienation of that fraternal regard which should ever exist between members of this great Republic. Sir, I hope not only to see the Constitution preserved through all time, but the Government administered in that spirit of conciliation in which it was formed—and this is the real question. But whilst the Senator from New Hampshire, and others, affect to fight under the popular banner of the ordinance of '87, the whole movement is a disguised attack upon the institutions of the southern States at every assailable point—their sovereignty and independence included.

Now, Mr. President, repeating what I have before said, I am opposed to slavery in every form outside of the Constitution; but just so far as it is a part of that sacred instrument I go for it, here and elsewhere. More than that—I scout and scorn that newly-taught idea, that any man who now owns, or has ever owned a negro, is to be rendered infamous therefor. This transcendental morality or piety, going so far beyond that taught by Christ and the Apostles, would desecrate the graves of the illustrious dead of our America—around whose tombs death and glory keep one eternal sabbath—and for this reason, if I had no other,

I can never entertain it. I shall vote for this compromise bill—the work, as I believe, of patriots and statesmen—not that it is, in all its parts, what I could wish it was, but because it secures the great objects I have in view—the admission of California, and governments for our feeble and dependent territories, already shamefully neglected. I am sick, sore, and tired of this discussion, and shall vote for this bill to get the subject out of the Halls of Congress, that we may attend to our usual and pressing legislative duties.

Mr. HALE replied; and

Mr. DODGE rejoined: Mr. President, I have no wish to pursue this controversy with the Senator from New Hampshire; for, sir, I know too well his great tact, and extraordinary skill as a skirmisher in debate, and particularly on this apparently interminable subject. In any such contest with him, I am well aware I must be greatly worsted. But, sir, it happens to be my nature to speak out upon particular occasions, and this is one of them.

The Senator from New Hampshire commenced his response to my remarks by saying, that my constituents must be extremely benighted, if it be at all necessary that they should be informed that I do not follow him. The reply I have to make to that is, that there is a sort of general talk about the "free North," and "treachery to the North," and that too in a manner which is extremely offensive to me.

Sir, in the course I have taken, and intend to take, upon this question, I am not conscious of treachery in the slightest degree to the generous and confiding constituency who have assigned to my care the brief trust which I hold at their hands. If I know my own heart or my own purpose, I seek to be faithful to them in every act I may perform, in every sentiment I may utter. Well, sir, the intimation is—and the gentleman cannot have forgotten the language he has used, because he is allowed, on this question, a degree of latitude that is not accorded to any other Senator—the assertion is, that the North is to be beaten, and the intimation is broad and direct, that it is to be done by northern treachery and northern votes; "and," said he, "while we are thus beaten and down, I hope we will not be kicked."

Now, sir, this is not the proper place to speak, nor can I here be allowed to speak of such language in the terms it justly deserves at my hands.

Mr. HALE. If the Senator will allow me to interrupt him, I beg to tell him that I used no such language. What I said was this, that, when you have beat us down, and laid us out cold, I hoped you would not point at us.

Mr. DODGE. I think the Senator, on a previous occasion, used a quotation, borrowed from Mr. Randolph, or some other Virginian, and spoke of kicking when down. [Mr. HALE. No, sir, I did no such thing.] Very well, sir, I shall not of course persist in the statement, if the gentleman denies it; but I will say, Mr. President, that whenever the vote is taken, I have no desire to be found voting with that gentleman. Whether it be "treason to the North" or the "West," I shall vote as I believe the best interests of my country demand, and, as I believe, in accordance with the sentiments of those who sent me here; and I would a little rather not be found voting with the Senator from New Hampshire, although in saying this I mean nothing personal, for the relations between us are those of friendship, and such, I trust, will ever prevail.

What I say of that Senator is political, and has reference to his representative action. I have known something of that gentleman's past public career and history, and certainly those who know even as little of it as I do, will be inclined to the opinion that he is the last man who ought to think of lecturing others upon the consistency, devotion, or sincerity, with which they adhere to any particular cause.

Mr. President, the Senator from New Hampshire says, in reference to the remark I made *en passant*, and in the hurry of debate, that I was not one of those who sought to organize political parties in this country in violation of the Farewell Address of Washington, that that illustrious man had given a practical evidence that he was an Abolitionist by freeing his negroes at his death. Very well, sir; I highly applaud the act, and have ever thought that it adds additional lustre to his matchless name. But, sir, that is a poor answer to my remark, that he had, in his last and greatest state paper, solemnly warned us against "characterizing parties by geographical discriminations," and implored us not to listen to ambitious and designing demagogues, who would, as he truly predicted, "spring up in different portions of our extended Union, endeavor to excite a belief that there is a real difference of local interests and views between Northern and Southern, Atlantic and Western States, and that those interests would be promoted by a severance of the Union." Against these things, and, as if with reference to the present state of our affairs, with prophetic vision and paternal solicitude, he exhorted us to beware; and I seek by my vote and my humble influence to avoid them. Sir, whilst no man could be more opposed to slavery in the abstract than I am, I will do nothing to excite and prolong this most unnatural feeling of hostility that has been so rapidly growing up between the slaveholding and non-slaveholding States of this Union. My doctrine is, hands off—non-interference. Sir, to my mind, there is nothing so fraught with danger to our America as an organization of the political parties who are to control the country upon sectional and geographical issues and divissions, and I scorn and repudiate the idea, that I am to be called on to vote for any man for President of the Republic, regardless of his political views and principles, simply because he lives in a free State, and is in favor of destroying the institutions and property, and perhaps the lives, of the people of the other half of the Union. And, sir, if the passions of men are to be lashed into fury, and we are forever to be forced upon these sectional issues, where are we to stop? If this question be not soon settled, who can be so blind as not to see that it is to run into, and perhaps control, the next presidential election? And if it should, the consequences resulting from it would be most disastrous, if not fatal, to the duration of the Government.

Mr. President, I believe that much, if not the greater part of what has been recently said about a dissolution of the Union, is exaggeration, and that no such feeling at present exists in the hearts of any considerable portion of the right-thinking people, North or South, who fortunately control the destiny of this country; nor do I think that any measures we are likely to pass here are going to cause a dissolution of the Union. Yet I do believe—and if I know myself, I am no alarmist, nor more given to unmanly fear than other men—as surely as there is a God in Heaven, if, by long continued agitation and excitement of the passions and prejudices of the people, you force upon them a purely sectional issue in the election of a President—one in which the people of the free States are

to vote for a particular candidate, because he is in and of a free State, and those of the slaveholding States to vote, on like considerations, for a candidate from their section of the Union—then, sir, I venture the opinion, that the seeds of dissolution will have been sown, and will ripen with fearful rapidity into a harvest of blood. Sir, I could cite men within my view who are looking forward to that position, and who are already imagining their elevation from this and the other wing of the Capitol, to the Presidency of the United States, upon an issue of this sort. The President, in that case, would be an Abolitionist; his Cabinet, as a matter of course, would be Abolitionists; so, also, would our foreign ministers be Abolitionists; and instead of standing up and defending our Government and its institutions, as my respected friend from Michigan [Mr. CASS] did so nobly upon a memorable occasion, when in a foreign land, you will have those in power and place who will lend a helping hand to the foreigner in his attack upon the institutions of just one-half of the sovereign States of this Confederacy,—aye, sir, those who will rejoice in every opportunity to join in the assailment of the Union, within whose borders the institution of domestic slavery exists. And how long, I ask you, when the genius of Abolition shall be enthroned in the Government, and shall control it in all its ramifications, can the southern States remain in the Union? The answer is, their self-respect, their interests, and the lives of their people, would forbid that they should do so for an hour. These, sir, are some of the inevitable consequences that must result to our country by giving way to the sectional and ambitious views of these gentlemen—small politicians—who expect to be carried, on a whirlwind of passion, to the high places which now dazzle and excite their imaginations. Now, sir, I will say, that I do not believe there is a particle of sincerity on the part of those who are eternally prating about the danger of slavery finding its way into Utah and New Mexico. I cannot believe they think what they say. This whole movement has been political rather than philanthropical. These gentlemen do not, they cannot, believe in their souls, that there is any probability whatever that southern slaveholders will beat the enterprising freemen of the North and West in the arduous enterprise of settling these cold and elevated Territories of Utah and New Mexico, and there establish, by force of their majority, the institution of domestic slavery; and yet, for the sake of a little transient political capital——

The VICE PRESIDENT. The Chair must admonish the Senator that his remarks are not strictly in order.

Mr. DODGE. I may be allowed, I hope, to say, that I have not a great deal of respect for those persons. I will not intimate that there are any present [laughter] who seek to ride into the Senate and House of Representatives on a "nigger's back." I have not a very high appreciation of that sort of pseudo-philanthropy, which passes by objects of benevolence and charity at home, to go a thousand or fifteen hundred miles into other States and communities, in quest of persons on whom to lavish its gratuitous kindness; which gets up books, caricatures, and effigies, depicting the alleged horrors of slavery, to excite and harass the old maiden ladies, and men of weak nerves, in the free States. Yet these are the characters who are endeavoring to lead and give direction to the affairs of this nation, and who contribute largely to get up these agitations, the evil results of which have been made manifest by rendering Congress, for the two years past, unable to discharge its duty

of providing governments for our rich and valuable territorial possessions. I think it is quite time for both Whigs and Democrats, if they would have this Union held together, and the business of the people transacted, to take a stand against these men and their machinations.

And now, sir, just show me a proposition having the taint of abolitionism about it, and you will have my vote against it at all times. I think I know something of the political calculations which are made by certain gentlemen, who, of course, are not here, [laughter,] upon the progressive character of these abolition movements. We all know the capital they have already made by denouncing "President Polk's God-abhorred war"—commenced and prosecuted, as they allege, for the extension of slavery. I must say, if they can calculate upon the spirit advancing as rapidly in the future as it has done in the past, they may well fix their gaze upon those high and much-coveted places which they are so anxiously waiting to fill. But, sir, having been the friend of that war and of that President—believing the war to have been just in its inception and glorious in its termination, and President Polk right in all he did—and these territories having resulted to us from the war, I feel and acknowledge the duty of the Democratic party to give them governments, and not to permit them to become the cause of a dissolution of the Union. As one of the humblest members of that party, I seek to perform this duty, and in a manner which shall not give just cause of offence to any section of the Union.

Sir, when I spoke of the warnings of the Father of our country, and of those who signed the Declaration of Independence—of the noble example they had set us, and of all they had done for us, I could not but think that we owed it, not less to them than to ourselves, to guard with sacred care the rich legacy they had bequeathed to us—the Constitution and the Union. But, sir, if the sentiments and opinions boldly advanced upon this floor by the Senator from New York [Mr. SEWARD] are to prevail in the free States, neither the Constitution nor the Union can be preserved; and more than that, those who formed them (Washington included) are to be rendered infamous amongst men. That Senator interposes the consciences of his constituents as an insuperable bar to carrying into effect one of the plainest requirements of the Constitution; and if I am not mistaken, expressed his deep regret that the Legislature of his State had not, at a time when the enactment of either of the measures would have placed the Union in peril, instructed him to go for the immediate abolition of slavery in this District, as well as the Wilmot proviso, for which he was instructed to vote.

The representatives and people of the South are opposed to the abolition of slavery in the District of Columbia, because of the ruin and distress that would inure to hundreds of persons, by depriving them of property, the result of the toil and sweat of themselves and their ancestors, and because it (the District) would become the great receptacle of the runaway negroes from the surrounding free States. This being their view of that matter, of course it must be regarded by them as an act of direct hostility, and as such they would meet it. These, sir, are some of the objects sought to be accomplished by these gentlemen; and I repeat, that so far as I am concerned, I go for the harmony of the country in all its parts, and for the maintenance of the Union. I therefore repudiate everything connected with this species of agitation, and I want none of the popularity to be derived from it.

I am the warm friend of the admission of California. I will vote for this bill, because, besides the admission of that new State, it proposes to provide governments for the remaining territory acquired by the war with Mexico. I think it would be both mean and cowardly to leave the people in our territories a prey to anarchy and military despotism any longer. The legislation of the Territory and State of Iowa proves that my constituents are not negro stealers. The sentiment of the great body of our people, as shown in our constitution and laws, is, to have nothing to do with negroes in any shape or form. No free State in America, having as many hundred miles of conterminous boundary as we have, with a slave State, is more disposed to discharge its constitutional duties in this respect, than is Iowa. So far as I know, the most neighborly, and kind feelings exist between us and the Missourians. The only exception to this state of things that has ever come to my knowledge, was a visit which a party of Missourians paid to a Quaker settlement of ours, rifles in hand, to reclaim some fugitive slaves. We had, on that occasion, a very slight practical illustration of the idea advanced by the Senator from Kentucky, [Mr. CLAY,] of States fighting for their rights under the Constitution, and within the Union; and bad as it is, like him, I greatly prefer it to fighting for those rights over the ruins of the Constitution, and after the Union shall have been dissolved. I think I can say, that as a State, Iowa will never interpose obstacles to the effective operation of any of the provisions of the Constitution of the United States. Nor do I believe that her people have any ambition to signalize themselves as negro stealers. I am, therefore, willing to take these measures together or separately, and to vote for them.

Mr. President, as another element of excitement, our ears have been made to ring with the cry, that the South have had nearly all the distinguished offices of the country. The number of Presidents, Chief Justices, Foreign Ministers, &c., has been constantly paraded before the people of the North, to excite and array them against the people of the South. Sir, this is all wrong, in my humble estimation. It is a departure from the example set us by our revolutionary worthies. John Adams, of Massachusetts, was the first man who named George Washington, of Virginia, for Commander-in-Chief of the American army. Since the administration of General Washington, who was elected by a union of all parties, men have been elected and appointed to office, because they were the true and tried representatives of certain great principles and measures that divided the people of this nation. Sir, in reviewing the history of the past on this point, and entertaining the sentiments I do, I find little to regret, and much to approve. Although they hail from what is called the South, there are no names for which I would expunge from our presidential calendar those of Washington, Jefferson, Madison, Monroe, Jackson, and Polk.

Mr. President. Since I have been speaking a friend has kindly furnished me with the exact language used by the Senator from New Hamshire on the particular occasion referred to by me. I find I was mistaken in attrubiting to him the offensive word (kicking) I did. I, therefore, make him the *amende* honorable, and give him the benefit of his own words. He said: "I hope the South will not point and say to us, as John Randolph said of some one else, 'we have bought you dog cheap.'"

SPEECH

OF

MR. DOWNS, OF LOUISIANA,

IN SENATE OF THE UNITED STATES, MAY 22, 1850.

The Senate having under consideration the order of the day, to wit: the bill to admit California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and northern boundaries—

Mr. DOWNS said:

I regret the course which the debate on this bill has taken from the time of the introduction on the report of the Committee of Thirteen. I have anticipated, from the first, that there would be an animated debate upon the subject which is now before the Senate; but I did not anticipate that it would come up in the manner and shape in which it has. I should have much preferred that the Wilmot proviso, which we all know is to be offered, should have been moved, and that the discussion should have taken place upon the direct issue offered by that measure. I should have greatly preferred that the main contest should have taken place in that way, to its coming up upon issues in relation to which there seems to be so much difference of opinion among southern Senators themselves.

However, sir, since these matters have come up, it is proper that I should state the views which I entertain, and the motives which have actuated me in the course I hitherto pursued in relation to them.

Mr. President, when the question which is involved in this bill arose, some two or three years ago, it was new. Nothing of the kind had then occurred in the history of the Government of the United States. In all previous cases of acquisition of territories, there was never any doubt as to the question of slavery. It was known and recognized that slavery did exist in them. We have now made an acquisition of territory from Mexico, in relation to which there is a doubt and a difference of opinion between the different portions of the United States. The people of the South contend that, under the Constitution of the United States, they have the right to go to these new territories with their slaves, and they complain that the effect of the agitation which is kept up on the subject, while the question is unsettled, is to exclude them from the enjoyment of that right.

The sagest, most experienced, and wisest men of this country have devoted much attention to this subject. The wisest and best men of the South have devoted as much attention to it as to any other question which has ever arisen in the course of our history; and, so far as I know, they have never arrived at any solution better than that of leaving the territories in the condition, as respects the question of the existence of slavery, in which they actually are—that question to be decided by the tribunals of the country when it comes regularly before them. We have professed our willingness to abide by such decision, whether against us or in our favor. We have insisted only that there should be no legislation affirming the laws of Mexico or prohibiting us from entering those territories with our slaves, leaving us to our rights—such as they may be under the Constitution of the United States or the laws of Mexico, as modified by it.

Now, Mr. President, for the two or three years past, during which the agitation of this subject has continued, I have not known of a single southern man who has ever insisted upon or asked for any positive legislation in favor of slavery in the territories or for any other plan than this. It is true there have been some modifications proposed. Some have been and some are desirous that the Missouri compromise should be applied to these territories, with an implied permission that slavery should go into a portion of the territory; for the Missouri compromise, in its literal terms, does not establish slavery or recognize its existence in any portion of territory, having been applied to a territory differently situated; but generally the principle of non-intervention has been adopted and promulgated by the South, and is that in which we have almost unanimously concurred as the just and most appropriate claim of the South.

This, Mr. President, was the principle with which we began in 1848, in the celebrated compromise bill of that time. That was the only position upon which we could stand to make any available opposition to the pretentions of the North. The South were willing to take it. It was not that they were entirely satisfied with it, or that they ought not to ask anything more; but, Mr. President, it cannot be denied that when that compromise was defeated by the aid of some southern votes, not here, but elsewhere, there were loud and long complaints by the constituents of those members who had been instrumental in defeating it. I believe that that compromise was entirely satisfactory to the southern people. It placed us in a position to obtain security for such rights as we actually possess, and which we have not obtained since. What has been the consequence to us of the rejection of that compromise? What is our condition now with respect to the State of California? We have lost all foothold there; and we have lost it in consequence of the fact that that compromise was defeated.

Now, Mr. President, what reason have we to believe that we shall gain anything in the South by defeating this compromise? We have lost by just such a course heretofore; and we shall lose by it now, if we persist in it. Our principle is as true now as it was then. Time changes not truth. We are in a minority. We have at no time had so favorable a compromise offered us as this. If we reject it, it will be utterly impossible that we shoud ever get so far again towards a fair and reasonable compromise on this subject. The compromise is undoubtedly less than, in my opinion, would be entirely just to the South; but a compromise is, in its very nature, a mutual cession of supposed rights in part, in order to secure the remainder. I supposed that every southern member of this House would accept so reasonable a compromise as this, not as the whole of what they would desire, but as the best which they could hope to obtain as a compromise; and I cannot believe now that southern men here can exert their influence for the defeat of these measures, brought forward under such circumstances, and go home to their constituents without receiving severer rebuke than fell upon those who were instrumental in defeating the compromise of 1848. For myself, I have not placed myself, and do not intend to place myself, in a condition to meet with that rebuke.

Mr. President, some members of the Senate, and my honorable colleague [Mr. SOULE] among them, seem to be extremely surprised with that provision of the bill now under consideration, which prohibits the action of the territorial legislatures upon this subject of slavery. My honorable colleague was not here at that time, (1848,) or he would not have expressed so much surprise at a provision which is precisely the same as that which was contained in the Clayton compromise bill, and was approved by every member from the South. This is precisely the same provision, even in its literal terms. It was thought then a most important provision for the safety of the South. It was thought then, as now, that the public opinion of those Territories was against the institution of slavery. We have certainly abundant reason to believe now that it is so since the transactions which have occurred in California, and after what we know of what is likely to occur in New Mexico.

Mr. HUNTER, (interposing.) My friend from Louisiana is mistaken in a material fact. It is true, sir, that the bill as originally introduced had these identical words. It is equally true that they were stricken out on amendment. Instead of them the words were "prohibit or establish slavery."

Mr. DOWNS. I have a printed bill, which I supposed was the corrected bill. It is, however, entirely immaterial whether the language was amended or not. The idea is still materially the same. It amounts, indeed, to precisely the same thing. The idea was there, and the idea is here. I do not care at all how it is expressed. I do not care what form of words was made use of to convey it. The principle was, that the territorial government should not prohibit slavery in the Territories. That was the whole of it. But, when we wanted to obtain the admission of that principle, it was very natural that it should occur to our northern friends that they should not, on the other hand, have the power to establish it.

Now, Mr. President, is there any reason to believe that the subject is less important now than it was then? Is there any more reason to believe that slavery will be favorably regarded in those territories now than then? Do you not hear continually from New Mexico that the inhabitants there are as much opposed to slavery as they have shown themselves to be in California? Have you not seen, within the last few days, an eloquent appeal from the Delegate from that Territory to his constituents, advising and urging upon them the formation of a State constitution, and that they should present themselves here, forthwith, for admission into the Union, after the example of California? And can you have a doubt, if they do organize themselves into a State, that they will exclude slavery by their own action?

Mr. President, there is still another part of that section which makes this matter still more important. There is a provision, as there is in all territorial bills, that all laws passed by the territorial legislature shall be sent to Congress, and if disapproved are null. Now, sir, does any one here suppose that the Congress of the United States, in its present disposition on this subject, or in any disposition in which it is ever likely to be, would ever disapprove of any law which might be passed by a territorial government prohibiting slavery? Never, sir; you must begin at the foundation. That is the only way you can ever fix it. I cannot see why, then, there should arise any objection to this provision. On the contrary, so far from amounting to the Wilmot proviso, as has been stated, I think that the omission of it would be sure to amount to the Wilmot proviso.

As to the first amendment offered by my friend, the Senator from Mississippi, [Mr. DAVIS,] I was not particularly informed of it; still I would have voted for it, and I shall vote still more cheerfully for the amendment of the Senator from Maryland, [Mr. PRATT,] which has been accepted as a substitute for it; but to dispense with the provision altogether I never can consent; and I did not suppose that there was a single man from the South who would not regard some such provision as indispensable, or who would vote for the bill without something of the kind. It is immaterial what form of words the amendment is in. The great point is, that the legislature of the territory shall not have the power.

But, Mr. President, in answer to my honorable colleague, in his argument of yesterday, based on the bill as it is, I consider that his argument that slavery must have in its favor, in order to exist, not only a constitutional provision, but other more immediate guards, is not a sound one, to the extent to which he carries it. I do not think that such guards are essentially necessary. He speaks of police regulations. My honorable friend states that it is necessary to have some police regulations in regard to rights in slave property. Now, I ask the Senator if it is the custom in all species of property to have special laws to regulate the rights of property, and to guard against injuries in respect to that property? Slavery is a species of property. In some cases there are special laws applicable to it, and in other cases there are not. But there are laws in New Mexico applicable to all other species of property, which would apply also to this species. It has been stated repeatedly, that, after the introduction of slavery, there was

no special law of any kind authorizing or prohibiting it. I ask, where were the statute regulations authorizing slavery in Virginia, when the first importations were made there? I doubt very much whether there were any such statutes or special provisions in Louisiana and Florida, when slaves were first introduced into them as Spanish colonies.* No doubt, for years after it was introduced, there was no such provision, because slaves were understood to be property. And the very idea of the existence of slavery carries certain rights with it. We do not provide certain laws against depredations in regard to oxen, sheep, hogs, and other kinds of cattle; and yet they are a species of property. Therefore, where is the necessity for making special provisions as being absolutely necessary for this species of property? I do not see, then, why any such amendment should be made to that language. It is not just what I like, but I adopted it because it had been settled upon in a former bill; and therefore I considered that no reasonable objection could be made to it. It was what was agreed upon before, and what I supposed there was little disposition to disturb again.

Mr. President, I think it is premature to enter into the discussion of the merits of this bill on a preliminary question, and I am sorry to see that it has been done. But inasmuch as it has been commenced—inasmuch as the welfare of the country, in my opinion, requires the bill, amended, as I hope it will be, should pass—inasmuch as I do not wish to have it killed prematurely, before it is perfected, by calling it hard names, and as hard names have been applied to it upon some grounds which I think are without foundation, I choose, at this early stage of the proceedings, to reply to some of the arguments made against it.

One of the arguments made by my colleague and others was, that although there is nothing in the bill which amounts to the Wilmot proviso, or a recognition of the principle contained in the second resolution of the Senator from Kentucky, yet the bill itself is of such a nature that this inference might be drawn, especially when taken in connection with the speeches made on the subject, and the report of the committee. Now, I think the speeches made upon the subject and the report of the committee have nothing to do with the interpretation of this bill. Why, my colleague says this bill must be interpreted according to the speech of the Senator from Kentucky the other day, proving the existence of the Mexican laws in these territories. I should like to know why it is to be interpreted according to the Senator's speech, any more than according to the opinion of my colleague upon the same question. For my part, I consider the able argument of my colleague on this point infinitely superior to that of the honorable Senator from Kentucky. I believe that it would be so considered in any court of justice, and that the scale would be turned in our favor. At any rate, the one has as much to do with the interpretation of this law as the other. But the truth is, as it often happens, men vote for the same thing for different reasons—reasons which are satisfactory to their own minds, but which have nothing to do with the bill itself. A report is made here; it is not acted on by the Senate; it does not have the approbation of the Senate; you are told by the honorable chairman of the committee that almost all the provisions in that report had not the unanimous concurrence of the committee; that many things were concurred in for different reasons; and that it was a mere statement of reasons by the majority of the committee who concurred in the several points reported upon. It is not acted on by the Senate, and it has no material bearing upon the question. But if this were not the case—if this report were material—if the law were to be construed according to this report, I would be willing to base it upon that, and to say that there is sufficient reason in that report to satisfy the South of the existence of slavery there. A mistake has gone abroad as to this report. We are constantly told that the report places the exclusion of the Wilmot proviso on the grounds which are objectionable to the South, and that is a reason why we should not vote for this provision of the law. That is a mistake. The reason given on this subject is very brief. It is clear, and it contains everything that the South has ever contended for. Give us what this report contains upon this particular subject, and we will ask no more. It takes exactly the position the Democratic party have contended for, which was maintained by the honorable Senator from Michigan, [Mr. Cass,] and which was advocated by the South, and beyond which we never wish to go. I wish to call the attention of the Senate to this part of the report. It is very brief, and I believe a great deal of unnecessary speaking has been made about it, because it is not sufficiently separated from the sentiments of the honorable chairman, contained in his speech:

"The bill for establishing the two territories, it will be observed, omits the Wilmot proviso on the one hand, and, on the other, makes no provision for the introduction of slavery into any part of the new territories. That proviso has been the fruitful source of distraction and agitation. If it were adopted and applied to any territory, it would cease to have any obligatory force as soon as such territory were admitted as a State into the Union. There was never any occasion for it, to accomplish the professed object with which it was originally offered. This has been clearly demonstrated by the current of events. California, of all the recent territorial acquisitions from Mexico, was that in which, if anywhere within them, the introduction of slavery was most likely to take place; and the constitution of California, by the unanimous vote of her convention, has expressly interdicted it. There is the highest degree of prob-

*This opinion is corroborated by the argument of Senator MASON, of Virginia, on the Oregon bill, in 1848. He said:

"The first negro slave that was landed on our shores, brought his condition with him from the land of his birth.

"The condition of slavery is fixed in the country whence the subject comes. *It required no special law to create it here, as seems to have been supposed.* The first slaves imported into Virginia, were landed from a Dutch ship, in 1620, and were purchased by the planters. The common law was then the law of the colony. By that law their condition as property was recognized; and under its pervading principle, that the issue follows the condition of the mother, (*partus sequitur ventrem,*) their descendants, as well as the descendants of every subsequent importation, have remained in bondage. There never was any statute in Virginia creating slavery, nor was there any need of one to establish that institution."

In reply to Mr. NILES's argument, that "when a slave is taken to a State where there is no such relation, he becomes free," Mr. MASON said:

"Sir, I think I have established, as a legal position, the very opposite. When the condition of the subject is that of bondage—whether it be temporary or perpetual—it is recognized by law and enforced, as a legal right; and if it be the case of a slave, such slave becomes free when taken to a country or State, only where such servitude is forbidden or prohibited by express local law. It follows, then, that while no *special* law is required to create this species of bondage, it does require positive or special law to destroy it; and such laws have been passed in all States where slavery has been abolished."

ability that Utah and New Mexico will, when they come to be admitted as States, follow the example. The proviso is, as to all these regions in common, a mere abstraction. Why should it be any longer insisted on? Totally destitute, as it is, of any practical import, it has, nevertheless, had the pernicious effect to excite serious, if not alarming, consequences. It is high time that the wounds which it has inflicted should be healed up and closed; and that, to avoid, in all future time the agitations which must be produced by the conflict of opinion on the slavery question, existing, as this institution does, in some of the States, and prohibited, as it is, in others, the true principle which ought to regulate the action of Congress in forming territorial governments for each newly-acquired domain, is, to refrain from all legislation on the subject in the territory acquired, so long as it retains the territorial form of government—leaving it to the people of such territory, when they have attained to a condition which entitles them to admission as a State, to decide for themselves the question of the allowance or prohibition of domestic slavery. The committee believe that they express the anxious desire of an immense majority of the people of the United States when they declare, that it is high time that good feelings, harmony, and fraternal sentiments, should be again revived; and that the Government should be able once more to proceed in its great operations to promote the happiness and prosperity of the country, undisturbed by this distracting cause."

Now, if southern men ever objected to this, I should like to know what their objections are. It is the very doctrine of my honorable friend from Michigan, [Mr. Cass]—the very doctrine for which all of us fought during the last campaign. It is the very doctrine which we presented in all our discussions on the Clayton bill. It is all we have ever asked; and yet we are told that this report itself, even if it is not the thing itself, amounts to the second resolution of the honorable Senator from Kentucky. Why, sir, there are provisions in this bill of which I do not approve, and I hope they will be amended; but, as I remarked a little while ago, I hope it will not be killed by calling it hard names—by comparing it with other things to which it has no resemblance. Take up its provisions, and analyze them. Look at them as they have been considered here. Examine them by all the tests of reason and logic; and if you find them obnoxious, reject them; but do not kill them by crying out "mad dog." Do not compare them with things to which they have no resemblance; but take them upon their own merits. Especially is such a course out of place here, when the Senator from Kentucky has avowed that the bill contains not his provision—contains nothing which purports to be his second resolution. He has given it up, as I understand, and has yielded the point upon the views contained in the bill, and the principle adopted in the report. This report in that respect has received the full approbation of every southern man upon the committee, and the phraseology of it was draughted by an able southern man. It is a great mistake, then, to suppose that there is anything in the report that is injurious or objectionable to the South on this point. If that report had taken the ground that the Wilmot proviso was constitutional, or any other argument of the kind, such objections might be raised; or if the concluding part of the sentence had not been incorporated, where it is expressly said, in so many words, that no interference shall take place until the State comes to be admitted into the Union.

Mr. President, the question is frequently asked, what does the South gain by this compromise? I think, sir, they gain a great deal. It would not be a compromise if we were to get everything we ask for. We ought not to expect that. I wish very much to have that portion of the bill amended, and I hope it will be amended, which gives to California the whole of the boundary which is embraced in her constitution. I think there is no reason for it as it is. I think all the reasons which apply in favor of her admission as a State do not require that we should extend her limits so far. I shall not enter into the discussion now of this point; at a future stage of these proceedings I may deem it my duty to do so. But take the bill as it now stands, and I can still see a great deal favorable to the South. What have we been contending for in this controversy? Against the prohibition of the Wilmot proviso. Is this in the bill? We are told that a provision against slavery has already been applied to California, and that, if we sanction and admit that, we give up our principle. It is true that such a provision has been applied, but not in the way we have been fighting against—not by the Congress of the United States. We have never taken the ground that a State cannot form its own constitution. I think that the South has been unfairly dealt with in this matter. I think it is an Executive proviso which has been applied there—a proviso in consequence of the non-action of Congress—but still it is not, I contend, a violation of any principle upon which we ever stood.

But, sir, look at the balance of this territory. California, though it embraces a very large and valuable portion of this territory acquired from Mexico, is not all of it by any means. It is no more, perhaps, than one-fourth or one-third of the whole. It is true, it is said that it is the most valuable part. It may be so. It is not certain that it is so. There are some reasons to believe it, but there may be great mistakes upon this subject. There is one matter which has been referred to by the Senator from Virginia, contained in the report of Mr. King, which has also been referred to by my friend from Mississippi, [Mr. Davis,] as going to show that it is a mistake to infer this territory of Utah is sterile and of no value. We are told that on the Colorado there are indications of fertility—that on the Gila there resides a tribe of Indians, living in a state of comfort and partial civilization, superior to any savages on the continent, and that they have an ample country to sustain them. This much we are told, Mr. President, in regard to that valley, of which we know scarcely anything, which is watered by the Colorado. There may be valuable lands there, though we know but little about them. As for New Mexico, we are wanting in information there, also. The settlers there have been encroached upon by the Indians. Many mines have been abandoned in consequence; but there are some facts which lead us to believe that it may be more valuable than we have supposed. If that country is so sterile and barren as it is represented to be, and there are no valuable precious metals in it, how did it happen that some two hundred years ago, situated as it is in the very centre of this great continent, it was colonized in advance of California, which is on the sea-coast, and which ought to have attracted attention so much sooner? I consider that effects of that kind are not produced without causes. There must be found some cause for the earlier settlement of this country.

Again, sir, if this is a sterile country, why is it that the principle trade with Mexico has for years

traveled over deserts and among Indian tribes from Missouri, to this part of the Mexican territory? Perhaps the most valuable trade they have ever had there was the gold and silver which these caravans brought from Mexico, from this barren country. True, many of the mines are not now known to be worked—are not now occupied. Their resources are very little now; but it may turn out, and I believe in all probability it will turn out, when American settlers have driven back those Indian tribes to their fastnesses, and open these mines, that they will be found to be of great value. But whether they are, or not, we have got a principle applied to the Territories, which are three times as large as California—a principle for which we have always contended, and, whatever other men may think, one which I consider of great importance.

Mr. President, there is another principle of the compromise which has been assailed. It is that with regard to the fugitive slave bill. Very much to my surprise, my honorable colleague, in discussing this part of the subject, seemed to think that the committee had taken that subject up as if injustice had been done to the North, and not to the South, and that the provisions of the bill were calculated to satisfy the North and not the South. Now, I never so understood it. If my honorable colleague has any doubts upon the subject, I presume, if he will make a motion, when the bill comes up, to strike out the section, I venture to say that he will find many northern men—there is not one northern man who will not go most cheerfully for striking it out. Now, what is this section? Why, we are told that instead of lessening the difficulties of recapturing fugitive slaves, it will increase them. It will not bear that construction. But if it does, like every other provision of the bill, it can be amended. But, as it now stands, it is not subject to the objections which are presented. What is it? It provides, that, in order to obviate the difficulties in making proof in the State to which the slave may escape, before the owner goes, he *may* go before some court, and take a copy of the record, which shall be considered evidence of his right to this property in him, and, upon presenting such *other testimony as may be necessary*, he shall have a right to take his slave home with him.

There is probably a difference of opinion as to the true construction of this clause. Perhaps the honorable chairman of the committee gives a different construction from what I would give. My construction is only that it is a cumulative remedy to aid us in the use of our rights—that it affords us additional evidence, and takes nothing away that we now have.

Mr. CLAY. Will the honorable Senator allow me to say that I concur entirely with him in the construction he has put upon it? It may be necessary—and it will be recollected that we thought there was a possibility of its being necessary—to make some little modification in putting the amendments together with the bill. He is right.

Mr. DOWNS. Here is the provision. It will be seen that it provides for additional remedies, and takes away none:

"When any person held to labor or service in any State or Territory, or in the District of Columbia, under the laws thereof, shall escape to another State, the party to whom such service is due may, by himself or legal agent, apply to any court of record, and make proof thereof; whereupon the said court shall cause a general description of the person so escaping to be made, and a transcript of this, duly authenticated by the signature of the clerk and seal of the court, shall be taken to be full and conclusive evidence of the fact of escape, and that labor and service are due by the person, before any judge, commissioner, or other authorized officer of the United States, before whom he may be brought when found. Upon this certificate, and other evidence, if necessary, substantiating it, the person so escaping must be delivered up."

The southern man may take it, if he chooses; if not, he can go as he does now. I conceive that the construction of my honorable colleague is altogether erroneous.

Well, again, sir, as to the provision for a trial by jury. Can there be any reasonable objection to that? None at all. Is there a southern State in the Union which does not authorize a trial by jury to slaves asserting their freedom? This frequently occurs in my State, and is tried as any other issue. I consider it as amounting to nothing at all. We say, and say truly, that none but honest men endeavor to recapture their slaves; and if it is so, I ask what objections an honest man can have to give a bond for this trial? Why, there are stronger objections to the laws of some of the slave States, which protect the slave in his effort to regain his freedom, by taking him out of the power of his master, who is compelled to give bond or other guarantee to secure him in his pursuit. We of the South have complaints enough to make, that are well founded; and I hope that we will never make any other. It only weakens the force of these we have. Let it be known that we are a liberal people, without prejudice, and we look at things as they really are. If we do otherwise, our northern friends will say nothing reasonable will satisfy us. But, Mr. President, that provision about fugitive slaves, and about the District of Columbia, is no part of this bill, and does not properly come up here for discussion. But I allude to it now merely to prove that the objections that are raised are without foundation.

But suppose that I am wrong in all these questions—that this bill is objectionable. I admit that it is objectionable in some of its features—that it is not as good as we could wish. I admit that, too. But before southern men can reject this, they ought to see what better they can do. Why, my honorable friend the other day said, that if we adopt this section it admits the idea that Congress has a right to interfere with slavery in the territories; which I do not think, because the action of Congress on this subject, and the action of territorial legislatures authorized by Congress, may be very different. As I understand, it has been laid down that, in ordinary cases, Congress has no right to legislate for the territories. She, however, may regulate a power in the initiative State which she could not exercise directly herself.

But my honorable colleague tells us that if we pass this provision as it is, the next day perhaps the Wilmot proviso will be imposed on these territories. I would like to know whether there is not another thing that is much more likely to happen, if we reject it. If we will take nothing but the whole loaf now, I would ask with what countenance we can hereafter, when we find we cannot get it, ask of the North any assistance in getting a fair and reasonable compromise? Why, if we do not adopt this compromise, the Wilmot proviso will then be passed. Or, if that is not the

case—if this strange and unaccountable doctrine of the Administration to leave the territories to shift for themselves—this doctrine which was commented upon so ably by the Senator from Kentucky on yesterday—if this should be adopted, what can we expect from it? Do we not anticipate already—are we not looking every day for a constitution to come from New Mexico, already cut and dried, prohibiting slavery? Do you not know that the Administration will use all their power to bring this about? Did you not see the appeal of the Delegate from that Territory, which was laid upon your table, to that effect? I would ask the gentleman—I would ask all who oppose this bill—whether that state of things is preferable to the one that would exist if this bill pass?

I think, then, Mr. President, there is something in this bill; I think there is a great deal in it. I think, with some modifications which I hope to see made, that it is a fair and honorable compromise—one in which the South give up no principle—one in which they sacrifice nothing which they have contended for heretofore. True, sir, they have been unfortunate in that part of it in relation to California; but that is not the larger part of the territory; and if that were larger, they have the proud satisfaction of knowing they have yielded no principle. Well, Mr. President, ought we not to make some sacrifice to settle this question? Is this constant warfare of the North against the South, and the South against the North, a desirable state of things? Is it to be persisted in, and favored for a day, when it can be stopped? Does it not lead to dangers on every side? Or is it not the interest of every man to stop it as soon as possible? I shall not be accused, Mr. President, of not standing up for and defending the rights of the South as warmly as any one. I have done it heretofore; I shall do it again. I have as many motives for doing so as most other men. But I would like to know what ground I stand upon. If the Wilmot proviso is adopted, I know that we have a principle to stand upon. I know that we have an issue. I was struck, sir, the other day, with a very remarkable sentence in one of the able letters addressed to the honorable Senator from Mississippi, [Mr. Foote,] upon this subject by a distinguished South Carolinian. He says that, in reviewing this question, for his own part—and I suppose that is the feeling of a good many of that honored State of South Carolina—he would prefer an *issue*, if he could get a good one; but that this compromise would give no such issue. I should like to have a good issue, too, if we must have a contest. We could fight better, with more credit and satisfaction to ourselves, with a good issue than if we have none, or a bad one. He, therefore, concludes, wisely, I think, that the South had better take the compromise than resist on such an issue. I hope, sir, if this question is settled, that we may have no need of an issue hereafter—at least for many years to come. As you were told yesterday by the honorable Senator from Kentucky, [Mr. Clay,] with regard to the Missouri compromise, we shall have many years at least of quiet. We may have troubles hereafter—perhaps we shall; but I trust it will never be necessary for the South to stand up in resistance against this Government. We shall have a better issue than we would have now by the adoption of this compromise. I do not think the South requires that we should be captious, and catching at every little apparent slight inequality that can be imposed upon us. Weak men, sir, not conscious of their own strength and their own powers—men whose dignity and whose position are not established and firmly fixed—may be particular about offences, and aggressions, and punctilios. Small nations, sir, should stick to principle, and weak powers should be careful of the slightest encroachment and insinuation against them, because they may be the commencement of encroachments more dangerous and serious. Great nations may with propriety adopt a different policy; they can afford to overlook unimportant slights and injuries of this kind. If, sir, the South was feeble and weak; if she was in danger of being trampled upon now, if she was even as weak as the colonies in the revolutionary war, with two or three millions of population, then I might be more anxious to guard her against any apparent slight. But this is not the case. When I know that she consists of seven or eight millions of population, whose exports amount to a large portion of the exports of this Union; that she has annually, from her resources, some sixty or seventy millions of surplus produce—when I recollect that my own little State, in the late war, with a population of some 300,000, (half of them slaves,) sent 6,000 troops to the field in two weeks, and in a foreign country, and equipped them, and paid for it in cash, without borrowing a single dollar; and although this money was afterwards, at her leisure, refunded by the United States, yet if it had not been, she could have borne it and much more—when I recollect this, and other instances of prowess evinced by the South, I cannot think her so feeble as to make it necessary to take offence at any imaginary wrong or apparent slight.

I will not submit to encroachment upon the South. But, when we are strong, I will not be captious and touchy, and avoiding and flying from what never may occur; because I know, if the day of danger must come, we have the power to meet it. But, Mr. President, if I took a different view of this subject, I should still feel myself compelled to vote for this compromise for another reason, which I will now state.

Whatever opinions we may entertain here, sir, our opinions are of little avail, without the support of our constituents. I am not one of those, and no one will accuse me of avoiding responsibility. I am ready to take it upon all occasions. I have taken it upon some occasions on this very question; I shall take it again whenever it is necessary. I would take it now, if I thought the interests of the South would be promoted, even against their wishes—if I thought it unsafe for the South to adopt it. But, sir, the South must govern themselves—not the Senate or the Congress of the United States govern them. They have decided this quetsion, and I would acquiesce unequivocally and decidedly in their decision. I do not set up myself, and I do not think the Congress of the United States ought, to dictate to the people. That is a great mistake, to undervalue the intelligence and wisdom of our constituents. They understand their own interests a great deal better than many public men suppose. I, for one, am disposed to follow, not to lead them. When they have adopted an opinion, I do not think it right for me to

stand up here and oppose it. I come here not to advance their interests beyond what they demand. They are at home, in comparative quiet, and can better judge of this matter than we can. All men know, who have much experience of legislative matters, that a very different state of feeling and opinion may exist at the seat of Government and at home. The very collision here at the Capitol produces excitement. We imagine wrongs which do not exist, and get into excitement that will not be felt the moment we are separated. Our people at home are less passionate. They judge more impartially. They see the whole question before them. Why, sir, we are so much worried here in the business, that even things transpire here under our own eyes, that we have less knowledge of than those at home, or we would have, if we were there. Now, sir, I have infinitely less knowledge of the public affairs at Washington than I could have at home. I there consulted the papers, saw all that was worth reading in the speeches of Congress, saw all these matters, and formed a deliberate opinion; but now I am so much pressed for time, have so much business to attend to, and so much excitement am I kept in, that I cannot decide calmly and form such a correct opinion as I could when I was at home. Sir, whatever opinion I might entertain upon this subject, satisfied as I am that there is an unequivocal expression of opinion in my State in favor of this compromise—that is a strong reason why I should support it. The nature of it was pretty well known before the committee acted; it is generally known now; and we have a response about which there is no doubt.

Well, sir, in my own State, I have looked at every paper, and have not seen a single one to oppose it. I have seen a good many respectable individuals of that State; I have received many letters; and neither in person nor letter have I known a single individual, Whig or Democrat, that says Louisiana will not accept this proposition.

To show that I am not mistaken upon this subject, I will ask the Secretary to read two extracts—one taken from a leading Democratic paper in the State of Louisiana, (the Louisiana Courier,) and the other from a Democratic paper in Kentucky.

The Secretary read the extracts, as follows:

From the N. O. Courier.—"If, then, this vexed question be amicably settled, and peace and harmony restored to the country, no thanks will be due to General Taylor and the galaxy of talents in his Cabinet. The principles of the compromise proposed by the committee are precisely those set forth by General Cass in speeches and letters before the last presidential election; they are precisely identical—non-interference in any case with the wishes of the people of a territory respecting the toleration or prohibition of slavery. Congress have nothing to do with the business; let the people frame the constitution to suit themselves; let them have slavery or not as pleases them best.

"This is the plan of Cass and common sense, but not of General Taylor."

From the Louisville Democrat.—"THE REPORT OF THE COMMITTEE OF THIRTEEN.—The bills reported by this committee are just about what we expected, and we believe they are the best that can pass Congress, either now or hereafter. They are not what will suit either North or South, but what four-fifths of both sections of the Union will acquiesce in.

"It is the interest of the southern States to take this compromise, rather than protract the discussion, in hopes of anything better. The South can support the bills reported by the committee without any sacrifice of principle, and one great point for the peace and security of the Union will be gained. It will be settled that the power of Congress is not to be employed on the subject of slavery anywhere, except, perhaps, in the District of Columbia; and the provisions on that point will quiet the question for a long time to come. Kentucky cannot object to abolishing the slave trade in the District of Columbia, when she has long since abolished it in her own borders. Indeed, this ought to have been a southern measure, in order to make the laws respecting slavery in the District conform to the common policy of the slave States of the same latitude. What has been found good policy for the slave States generally is equally good for the District of Columbia, one would suppose.

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"We cannot now abandon the position of the Democratic party in 1848. It is as good now as it was then. It was a matter of principle then—it is so still. We believe it belongs to the people of a territory to determine their own domestic institutions when they come to form State governments; and we do not believe in the right or the expediency of Congress undertaking to shape these institutions by anticipation.

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"We believe that four-fifths of the people of the United States will be satisfied with the arrangement. Why the South should object we cannot see. Her apprehensions are from the power of a dominant sectional majority. Now, when the jurisdiction over the subject is formally abnegated by Congress, it strikes at the root of the evil. Stick to the principle and we have nothing to fear.

"This is the principle we have always maintained, and we see no good reason to change. We cannot see how any Democrat who sustained General Cass at the last presidential election can withhold his support from these bills. They are framed upon the very basis advocated throughout the canvass by the whole Democratic party.

"We are confident these bills will pass in the end. They commend themselves too strongly to the good sense of all parties to be defeated. If there is any doubt, let the masses speak out from all sections of the country. We are confident that an overwhelming majority will sustain the committee's report. It is not the mere work of thirteen men. It imbodies the conclusions that the moderation and good sense of the country have come to in all quarters of the Union. It is a compromise on the only ground of compromise. It is a national endorsement of the soundness of the policy of the Democratic party, proposed at the start and advocated up to this time with uncommon unanimity."

Mr. President, I have but a word more to say. I have given some of the reasons already why I thought this measure, amended, as I hope it will be, should not be hastily rejected by members from the South. I will now most earnestly appeal to my Democratic friends from the South on the subject. One great difficulty which we have always had to contend against, upon this question, has been division. If we had always stood united to a man in the South—both parties, Whigs and Democrats—if general politics had never been introduced on this subject, there never would have been this difficulty in settling this vexed, dangerous, and sectional question of slavery. But for the mixing of general politics on this question, the compromise of 1848 would have passed.

It is only on particular conjunctures that this question can be settled satisfactorily to the South. I believe that we are now in one of these conjunctures. We of the South have had great difficulties to contend with on this matter. We are in a minority. It is only under particular circumstances we can succeed in securing our rights. The times are now propitious. The Administration, which opposes us, and which if strong could defeat us, is now weak and wavering. The Whigs of the South are with us. We have some powerful support which we have no right to expect under other circumstances. Our Democratic friends from the North and West are with us now. All we need, then, is the *perfect* union of the Democrats of the South that have never separated before. Shall we not have it, then? Who shall prevent? Who shall take that awful responsibility? Who shall defeat our last chance of success? I shall most assuredly not, for one.

Yes, sir, I repeat it—for I wish to impress it on my Democratic friends from the South—we have our Whig friends from the South perfectly united with us on this subject. We have strong support from quarters from which we have no right to expect such support in ordinary times, and they have declared that, if we fail in this, they can go with us no longer. Then, sir, once dissolve the charm of this compromise, once discard this measure, once dissolve the ties which now exist between men of all parties and of all creeds, and you lose the best chance the South will perhaps ever have of settling this question fairly and honorably, and without blood. I believe now that a conjuncture of circumstances exists which will never exist again. And mark what I tell you: Let this opportunity pass, and the South are left in the minority—a hopeless, a helpless, an unavailing minority. We have now a chance which will never occur again. Let us not, then, pause; let us not hesitate; let us talk together like brethren and friends. If there is anything in these bills which we do not like, let us endeavor to amend them; let us perfect them as far as we may be able; let us do the best we can, in a spirit of mutual kindness, concession, and compromise. But let us not set ourselves up to control the opinions and feelings of others; let us not attempt to dictate measures to the majority, being as we are, in a minority. I hope, then, that our southern Democratic friends especially, will, all of them, pause long before voting against this measure. I know that they are anxious to have some amendments, which I hope will be made; but I ask them, I earnestly entreat them, to pause before they commit themselves irrevocably. I do not think, indeed that it is the province of wise statesmen to plunge in the dark. I do not ask this. I am a southern man in all things. Anxious as I am to go for this measure—desirous as I unquestionably am to give the South all her just rights—yet, if a better plan can be presented, I will vote for it. But I do not intend to leap in the dark, or to be responsible for the course of events which time may develop, but which I cannot see, and from which I can hope no good. I hope, then, sir, that these differences of opinion, which I do not understand to be very material, will not be carried to extremes, but that there may be a general feeling of concord and harmony among all those who have the interests of the South at heart. There are other reasons, of a most important kind, which I might urge, but I will not dwell upon them now. I may have occasion to advert to them as this measure progresses. But I do again express my earnest hope that our southern friends will not differ on matters of minor importance, but that they will concentrate all their energies to effect a settlement of those agitating questions in which the interests of every section of the Union are so deeply involved.

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SPEECH

OF

HENRY CLAY, OF KENTUCKY,

ON THE

REPORT OF THE COMMITTEE OF THIRTEEN.

DELIVERED IN THE SENATE OF THE UNITED STATES, MAY 13, 1850.

The Senate having under consideration as in Committee of the Whole, the bill reported from the Committee of Thirteen for the admission of the State of California, the establishment of Territorial Governments for Utah and New Mexico, and making proposals to Texas for the settlement of her western and northwestern boundary—Mr. CLAY said:

MR. PRESIDENT: I have risen for the purpose of making some statements and an additional exposition relative to the report of the committee, of their proceedings, and of their action upon the important subjects before you. When the report of the committee was presented to the Senate last week various members of the committee rose and stated that parts of that report had not met with their concurrence. Mr. President, it might have been stated with perfect truth that no one member of the committee concurred in all that was done or omitted to be done. There was, however, a majority upon most of the subjects, indeed upon all of the subjects, which have been reported by the committee to the Senate. Each Senator, perhaps, if left to himself separately, would have presented the various matters which have been reported to the Senate in a different form from that in which they now present themselves. I was myself upon one occasion in a minority. I have not been discouraged, Mr. President, in the smallest degree by the differences which existed either in the committee or which were manifested in the Senate when the report was presented. Gentlemen who did not agree exactly to what was done will, no doubt, in the progress of the measure, endeavor to make it conformable to their wishes. If it should not be so modified, I indulge with confidence the hope that no one of them is so irrevocably committed against the measure as to induce him upon the question of its final passage to vote against it. I am not authorized to say, and I do not mean to say, that there will be an affirmative vote of every member of the Senate who was upon the committee in favor of the measure upon the final passage of the bill; but I mean to say that I indulge a hope that, whether all the modifications which were desired by various members of the committee may or may not obtain, finally there will be not only a mere majority of the committee voting in favor of the measure—and I greatly hope they will vote for it unanimously—but I trust that it will leave this body with a large majority in its favor. I am not discouraged, I repeat, by any thing that has transpired in the committee or in the Senate, or in the country, upon the subject of this measure. I have believed from the first, and I yet firmly believe, that if these unhappy subjects which have divided the country are to be accommodated by an amicable

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adjustment, it must be upon some such basis as that which the committee has reported; and can there be a doubt in the mind of any honorable Senator on the subject? Sir, I believe that the crisis of the crisis has arrived, and the fate of the measures which have been reported by the committee will in my humble judgment determine the fate of the harmony or continued distraction of this country. Entertaining this belief, I cannot but indulge the hope that honorable Senators, who, upon the first hearing of the report, might have seen some matters in it objectionable, according to their wishes and judgment, and that the entire Senate, after a full consideration of the plan, and after a fair contrast between it and all the other proposed plans, and all the other practicable plans for the adjustment of these questions—whatever expectations or hopes may have been announced elsewhere out of this body, will ultimately give it a general concurrence.

But, sir, I have risen, as I announced, more particularly for the purpose of entering into some further explanations of the course of the committee, and of throwing out some few observations in support of the measures which they have recommended to be adopted by the Senate. The first measure which they reported, Mr. President, was that of the true exposition of the compact between the United States and Texas upon the occasion of the admission of that State into the Union. Upon that subject, as has been already announced in the report, I am happy to say there was an undivided opinion. Two honorable Senators, one of whom is now absent, and the other present, whilst they declared their concurrence in it of the true exposition of the compact, qualified that declaration by stating that they did not hold themselves, and did not intend to be understood as holding themselves, in all possible state of things and in every possible contingency, pledged to vote for the admission of States that might be carved out of Texas; they intended to preserve to themselves the right to determine, when any new State formed out of Texas should present itself, whether, under all the circumstances of the country, and all the circumstances under which the new State might present itself, it should or should not be admitted. Whilst they made this reservation, both united most heartily in the true exposition of the compact between the United States and Texas, according to which, as you know, sir, a number of States not exceeding four, with or without slavery, having the requisite population, and with the consent of Texas, were to be admitted in the Union from time to time, as they might be matured and present themselves for admission. But I will not dwell longer upon that part of the subject.

I will now, Mr. President, approach that subject which in the committee and the two Houses of Congress has given most trouble and created the most anxiety of all the measures upon which the committee have reported—I mean, the admission of California into the Union. Against this measure there are various objections. One of these objections is with respect to its population. It has been contended that it ought only to be admitted, if admitted at all, with one representative; that if admitted with two representatives it will be a violation of the constitution of the United States; and that there is not sufficient evidence before the Senate and the country that it has a population entitling it even to one representative. I suppose, sir, that no one will contend—California and the other acquisitions from Mexico having been admitted into the Union only about two years ago; last February two years is the date of the treaty of Hidalgo—no one will suppose that that sort of evidence to entitle California to one or two representatives could be furnished by the decennial enumeration of the population of the United States. It is impossible with respect to California that any such evidence could be furnished—she having become a part of this empire eight years after the last census.

Now, sir, let me ask what was done on the first apportionment of representation amongst the several States of the Union? There was no Federal enumeration of the people of the United States on which that apportionment was made. So many representatives were allotted to one State, so many to another, and so on, completing the number provided for by the constitution of the United States. In that instance, the Congress, or rather the Convention that allotted those representatives to the various States, went upon all the information which they possessed, whether it was perfectly authentic or not. It is known by those who are at all acquainted with the adjustment of the question of representation amongst the several States that the number of representatives allotted was larger than the actual population of the State would entitle them to in some instances. I may mention more particularly the case of Georgia. It is pretty well known that a larger number of representatives was allowed to her than the exact state of her population would authorize; but it was said Georgia is a new State rapidly filling up;

a strong current of emigration is pouring into her limits, and she will soon, perhaps even by the time her representatives take their seats upon the floor of the House, have the requisite population. In this way, upon information not obtained on federal authority, but upon information obtained by all the modes by which it could be procured, and which was of a naturo calculated to satisfy the judgment of the convention, was the apportionment made by the convention that framed the constitution. So, sir, in the case of more recent acquisitions and annexations. That of Texas, for instance. Nobody believed, I think, at the time, that Texas had a population entitling her to two representatives, but as in the case of some of the old thirteen States, so in the case of Texas, she was rapidly filling up. It was known—as I have no doubt will turn out to be the case when the census comes to be taken in Texas—that before the next enumeration should take place she will have a population not only entitling her to two, but probably to more than two representatives.

Now, sir, there is an error existing, at least I thought so from the remarks of one or two friends the other day, with regard to the requisite population to entitle California to two representatives. It is not, as is supposed, double the ratio which was fixed ten years ago by Congress. That ratio was fixed at 70,680, but it was expressly provided in the law establishing it that any State which had an excess beyond the moiety of the ratio established should be entitled to an additional representative. According to the provisions of that law, to entitle California to two representatives, she would only be required to have a population of 106,021, and not, as was supposed the other day, of one hundred and forty odd thousand. Well, now, the question is, putting out of view altogether the rapid augmentation which is daily taking place in the population of California, whether she has a population at this time—at the time when her members come to be admitted—which would entitle her to two representatives?

Mr. President, I have here what satisfies my mind, and I trust will also satisfy the minds of other Senators. In the first place, I offer to the Senate an extract from a memorial of the Senators and Representatives from the State of California to the Congress of the United States. It is a document dealing in details and figures, and would take up some time to peruse the whole. That memorial has been before every Senator, and can be resorted to by him; if he has not already examined it he can examine it for himself. According to the details contained in that memorial—partly conjectural, it is true, but partly, and I believe the larger portion of them official—the population of California on the first of January, 1850, was 107,069, exceeding the amount of population requisite to entitle the State of California to two representatives. But that brings it down only to the 1st of January, 1850. Since that time we are authorized to add to the number above mentioned the arrivals by sea at the port of San Francisco, as shown by the official report of the harbor master, from the 1st of January, 1850, to the 27th of March, 1850. Sir, without going into a classification, there are of Americans 11,454, and of foreigners 5,503, making a total from the 1st of January to the 27th of March, 1850, of 16,957. The number of desertions from ships, as stated in the memorial before alluded to, is 3,000, in round numbers. The official report of the harbor master, made on the first of March last to the Legislature, states that the "number of officers and seamen who have left their vessels, from various causes, is 14,240. An aggregate of all these statements will give us the population of California at different periods, and will show the following result: On the first of January, 1849, there were 26,000; of these 8,000 were Americans, 13,000 were Californians, and 5,000 were foreigners. On the 1st of January, 1850, there were 107,069; making a total number up to the 27th of March, 1850, of 124,026; add to this for deserting seamen 14,240, and you will have a total population up to the 1st of March, of 138,266; to which is to be added the population which has arrived from the United States and other places since the time mentioned. I have no earthly doubt—indeed I am perfectly satisfied in my own mind—that putting all these statements together, there is at this moment a population in California that would entitle her to two Representatives, even supposing there had been no provision for the fraction exceeding the moiety of the ratio fixed upon by Congress.

Well, upon this question of population, I do not wish to take up the time of the Senate unnecessarily; but, it will be said that they are fresh population. Sir, they are bone of our bone and flesh of our flesh for the greater part. They have lost none of their intelligence or capacity for self-government by passing from the United States to Cali-

fornia. There are foreigners there, it is true; but, by our treaty with Mexico, all the Californians who remained became citizens of the United States in one year, if they did not adopt the alternative of remaining Mexicans after the treaty of Hidalgo was signed. I remark that the constitution of the United States itself nowhere fixes any term of residence necessary to constitute an individual or person a portion of the people of the United States. The language of the constitution, in the adjustment of the question of representation and taxation, is "the people" and "numbers." I think, then, that however long or short a time they may have been there, as they ought to be represented somewhere—I mean those who have left the United States and gone there—there is little doubt that at this moment there is a number of citizens of the United States sufficient to entitle California to two representatives. Well, sir, they are not now represented, and will not be represented in the United States. They ought to be represented somewhere; and, having gone to California—it is said they have gone there only for temporary purposes, yet, Mr. President, they have gone to California; they are there; and the question of how many will return or how many will remain there it is impossible to tell. It is all right to move from place to place; and, with regard to the State of Louisiana, I will state a fact, which will be recollected and confirmed by the honorable gentleman in my eye from that State, that thousands and thousands who went to New Orleans and Louisiana shortly after the acquisition of that territory by the treaty of Louisiana—and who, up to the present time, go there, only for temporary purposes—intending to make a fortune and return home, never did return home, but finding so delightful a climate, and finding themselves so happy when they got there, scarcely one in a hundred ever came back. So of California. I dare say that vast numbers are going there, some with the intention of returning; but, sir, after they are connected by marriage and by social ties, and by the acquisition of wealth, and by all those ties which tend to fix in a permanent home the residence of this animal "man," they will relinquish this purpose of returning to the United States, and become permanent and fixed inhabitants of California. On the question of population, therefore, I think there is no ground, no serious ground, of rational objection to the number of representatives proposed—two representatives. This is precisely the same number as in the case of Texas.

Now, with regard to the limits of California. Mr. President, upon that subject an effort was made in the committee to extend a line through California at 36° 30′ of north latitude, and one member who was not satisfied with that line proposed 35° 30′. A majority of the committee, I believe, were in favor of that amendment; but, on the question being taken for the line of 35° 30′, a majority was found to be against it. Sir, is it not a little remarkable that this opposition to the line—this attempt to cut California in two by the line of 36° 30′, or 35° 30′, or by any other line—is a line not coming from the North at all, from whence we might suppose it would be proposed? For, with respect to the North, there can be no earthly doubt that if there were half a dozen States made out of California they would be all what are called free States. The North, however, does not seek such a division. It is from the South that the opposition to acceding to the limits of California, as proposed in her State constitution, comes. The South wants other States there, or another State there. Some gentlemen from the South, it is true, propose that there should be an express recognition of the right to carry slaves south of that line; but I believe that the major part of those who insist on the establishment of that line do not ask for the recognition or a positive enactment of the right to carry slaves south of that line; and I think that those who are acquainted with the country, or who have taken the pains to look over the map, will come to the conclusion of a friend of mine from the South, (who, I believe, is now in my hearing,) a large planter, who said to me the other day, "Mr. Clay, if Congress were to offer me $500 a piece for every slave I own, requiring me as a condition to take them to California, or to either of the new Territories, and there to keep them—if I could keep them—for ten years, I would not accede to the proposal." Now, suppose you take a line at 35° 30′ or 36° 30′ of north latitude, cutting California in two, what would become of her Southern portion as a slave State? There would be the open sea on the one side ready for the escape of your slaves; there would be the free State of California on the other, and Mexico, with her boundless mountains, on the third. Who believes that, if you establish the line proposed, slavery would ever be carried there? Moreover, I have understood that all the delegation in the Convention—of course all of them must, because the Convention was unanimous—the whole Convention—all south of the line 35° 30′ as well as north of it—voted against the introduction of

slavery. It cannot, therefore, be, and I presume it is not, under any hope--if California should be curtailed in the manner proposed--that there will ever be slavery within her limits, or upon the Pacific at all. The fact, therefore, of the establishment of a new State or of new States out of the present limits of California, is merely to add to the objection which has been made by the South of the preponderance and influence of the North, and the apprehensions which they entertain from that preponderance and influence of Northern power. If the North is satisfied, and if the thing is not very unreasonable in itself, it seems to me that there should not be any hesitation on the part of our Southern friends in Congress in acceding to these limits.

But it is said that they are unreasonable. California has some six or seven hundred miles of coast on the Pacific ocean. It is said that it is too large. Sir, it is stated in the report that, with respect to all the southern portion of California, south, for example of 36 deg. 30 min., shortly after you have left the coast, you encounter deserts of sand which never can be inhabited; and that after you have passed these deserts of sand you approach mountains, and then get involved in successive chains of mountains, till you reach a population in the midst of these mountains and beyond them, which has no intercourse at all with the Pacific, and whose intercourse is almost exclusively with Mexico, or with countries on the Atlantic ocean and on the Mexican Gulf. So also when you go to the northern portion of California; there is a vast desert not known to have been passed, extending from the country occupied by the Mormons down to the Pacific ocean. Now, if you go there, how could you reach the coast of the Pacific through this impassable desert? There seems to me to be no adequate motive for the curtailment of the limits of the Pacific, with a view to the accommodation of future States; at least I judge not, from the amount of geographical knowledge which we at present possess of these territories.

But, Mr. President, it was said here the other day, with respect to California, that her case was different from that of the other new States which have been admitted into this Union. It is mentioned in the report that there are cases of States which have been admitted without the previous authority of Congress. And is it not so? My honorable friend from Alabama stated that in all the instances of States which have been admitted into the Union, they had served an apprenticeship of so many years; but, sir, the observation and statement in the report of the committee stands uncontradicted. Michigan, Arkansas, and Florida, if not other States, came in without any other act of Congress, according to the usage which prevailed in the early admission of States, authorizing them to hold a convention to frame a constitution, and to come in with that constitution. They laid off limits for themselves. They called a convention; they adopted a constitution, and they came here and asked for admission. It was said that they were under the Government of the United States. So much the better for them; they had a good government; a Territorial Government. But how is it with California? She has no government. You have deserted her; you have abandoned her; you have violated your engagement contained in the treaty of Guadalupe Hidalgo, and left her to shift for herself as well as she could. In this state of abandonment she chose to form for herself a constitution, and she has come here to ask for admission; and I ask again, as I had occasion to ask three months ago, whether she does not present herself with much stronger claims to admission than those States which had all the advantages of free governments which have come here to be admitted into the Union? I think, then, Mr. President, that with respect to the population of California, with respect to the limits of California, and with respect to the circumstances under which she presents herself to Congress for admission as a State into the Union, all are favorable to grant her what she solicits, and we can find neither in the one nor in the other a sufficient motive to reject her, and to throw her back into the state of lawless confusion and disorder from which she has emerged.

Sir, with the committee I unite in saying on this occasion that all the considerations which call upon Congress to admit California as a State, and to sanction what she has done, and to give her the benefit of self government, apply with equal force to the Territories of Utah and New Mexico.

Mr. President, allow me, at this stage of the few observations which I propose to address to the Senate, to contrast the plans which have been presented for the settlement of these questions. One has come to us from a very high authority, recommending, as I understand it, the admission of California, and doing nothing more, leaving the question of the boundary unsettled between New Mexico and Texas, and leaving the people who in-

habit Utah and New Mexico unprovided for by Government. Mr. President, I will take occasion to say that I came to Washington with the most anxious desire—a desire which I still entertain—to co-operate in my legislative position in all cases in which I could conscientiously co-operate with the Executive branch of the Government. I need not add, however, sir, that I came here also with a settled purpose to follow the deliberate dictates of my own judgment, wherever that judgment might carry me. Sir, it is with great pleasure that I state that we do co-operate with the President of the United States to the extent which he recommends. He recommends the admission of California. The committee propose this. There the President's recommendation stops, and there we take up the subject, and proceed to act upon the other parts of the territory acquired from Mexico. Now, which of these two courses commends itself best to the judgment of those who are to act in the case? In the first place, if we do not provide governments for the other portion of the country acquired from Mexico, we fail to fulfil an obligation, a sacred obligation, contained in the treaty with Mexico. It is said that they will have a government of their own, a local government; that they have such a one now; but that they have not such a one now as they had when they were part of Mexico. When they were a part of the Republic of Mexico, with the common Government of Mexico stretching over all the parts constituting that Republic, they had all the benefits resulting from their own local laws, and the additional benefit and security resulting from the laws of the Supreme Government covering all parts of the Republic. We took the place of that Supreme Government. They were transferred from that sovereignty to this sovereignty; and we stipulated with the agents of their former sovereignty that we would extend to them protection to their persons, security to their property, and the benefit of pursuing their own religion according to the dictates of their own consciences. Now, sir, if you admit California and do nothing for Utah and New Mexico, nothing in relation to the settlement of the boundary question with Texas, I ask you in what condition, in what state will you leave those countries? There are the Mormons—a community of which I do not wish to say one word of disrespect, for I know very little about them; I have heard very opposite accounts of them; I believe that during this session my colleague before me had occasion to present some memorials to the Senate showing some very harsh if not oppressive and tyrannical treatment by the Mormons towards citizens of the United States who did not happen to compose a portion of their community——

Mr. UNDERWOOD. They were strangers, and were merely passing through their settlement.

Mr. CLAY. My colleague says they were strangers, merely passing through their settlement. Well, of that people, of their capacity to govern, of the treatment which they would give other citizens of the United States who might settle among them, or pass through their country, not belonging to their community—upon all these matters—matters upon which Senators from Missouri and Illinois, are much more competent to afford information to the Senate than I am—I care not whether they are as bad as they are represented by their enemies, or as good as they are represented by their friends; they are a portion of the people whom we are bound by treaty as well as by other high obligations to govern; and I put it to you, is it right to say to the people of Utah, comprehending the Mormons, and to the people of New Mexico, deprived as they are of the benefit of the Government they once had, the supreme authority of which resides at Mexico—is it right to say that we will leave them to themselves? It is said that they will "take care of themselves," and that "when they get ripe for State Government—and when will they get ripe for State Government?—after the lapse of many years, let them come forward and we will admit them as States." Sir, is that discharging our duty? I will go further with reference to the message in relation to California—which I am sorry it is my duty to contrast with the plan of the committee now under consideration—and say that I have no doubt that there were strong, or at least plausible reasons for the adoption of the recommendation contained in the message of the President, at the time it was sent to Congress, at the beginning of the session. I have no doubt that it was apprehended at that time that it was impossible to pass any measure providing governments for the territories, without producing in Congress scenes of the most painful and unpleasant character. I have no doubt it was believed, as indeed was stated in the message, that the distraction would be greatly aggravated; that differences of opinion would be carried to extreme lengths, if, as the President believed at the time the message was sent in, any attempt should be made to extend the authority of the Government over these territories. But, sir, I am happy to be able to recognise, what all have seen, that since the commencement of the session a most gratifying change has taken place. The

North, the glorious North, has come to the rescue of this Union of ours. She has displayed a disposition to abate in her demands.

The South, the glorious South—not less glorious than her neighbor section of the Union—has also come to the rescue. The minds of men have moderated; passion has given place to reason every where. Every where, in all parts of the Union, there is a demand—a demand, I trust, the force and effect of which will be felt in both Houses of Congress—for an amicable adjustment of those questions for the relinquishment of those extreme opinions, whether entertained on the one side or on the other, and coming together once more as friends, as brethren, living in a common country and enjoying the benefits of freedom and happiness flowing from a common Government.

Sir, I think, if the President had at this time to make a recommendation to Congress, with all the lights that have been shed upon the subject since the commencement of the present session of Congress, nearly five months ago, he would not limit himself to a recommendation merely for the admission of California, leaving the Territories to shift for themselves as they could or might. He tells us in one of these messages (I forget whether in the one which was sent in December or January) that he had reason to believe that one of these Territories, at least New Mexico, might possibly form a State Government for herself, and might come here with an application for admission during the progress of this session. But we have no evidence that such an event is about to happen; and if it did, could New Mexico be admitted as a State? At all events, there has been such a change of circumstances from the period when the message was sent in down to the present time, that I cannot but believe that the gentleman who now presides at the head of our public affairs, if he had had the benefit of all these lights, would have made the recommendation much more comprehensive, and much more general and healing in its character, than a simple recommendation for the admission of California, leaving all the other questions unsettled, and open to exasperate the feelings of opposing parties.

Sir, I have spoken of the abandoned condition of Utah and New Mexico, left without any authority of this Government, acting locally to protect the citizens who come there to settle, or to protect those who are in transitu through the country, without any authority connected with the supreme Government here, or any means of communicating from time to time the state of things as they exist there. To abandon these countries, in the face of our obligations contained in the treaty of Hidalgo, and other high obligations by which we are bound—to abandon them thus would not, as it appears to me, be conformable to that duty which we are called upon to perform. Leave these territorial questions unsettled, and the door of agitation is left wide open—settle them, and it is closed, I hope forever.

Well, then, there is the boundary question with Texas. Why, sir, at this very moment we learn through the public papers that Texas has sent her civil commissioners to Santa Fe, or into New Mexico, for the purpose of bringing them under authority; and if you leave the Texas boundary question unsettled, and establish no government for Utah and New Mexico, I venture to say that, before we meet again next December, we shall hear of some civil commotion, perhaps the shedding of blood, in the contest between New Mexico and Texas with respect to the boundary; for, without meaning to express at this time, or at any time, any positive opinion on that question, we know that the people of Santa Fe are as much opposed to the government of Texas, and as much convinced that they do not belong to Texas, that they constitute no portion of the territory of Texas, as we know Texas to be earnest in asserting the contrary, and affirming her right to the country from the mouth of the Rio Grande to its uppermost sources. Is it right, then, to leave these territories unprovided for? Is it right to leave this important question of boundary between New Mexico and Texas unsettled? Is it right that it should be left unsettled to produce possibly the fearful consequences to which I have adverted?

Sir, on these questions I believe—though I do not recollect the exact state of the vote in committee—that there was no serious diversity of opinion. We all thought we should establish governments for them if we could; that, at any rate, we should make the attempt; and if we failed, after making the attempt, we should stand irreproachable for any voluntary abandonment or neglect of them on our part.

The next question which arose before the committee, after having agreed upon the proposal to be made to Texas for the settlement of the boundary between her and New Mexico, was the question of the union of these three measures in one bill. And upon that subject, sir, the same diversity of opinion which had developed itself in the Senate displayed itself in the committee.

A Senator, in his seat. What of the amount to be paid to Texas?

Mr. CLAY. Ah; I am reminded that I have said nothing about the amount proposed to be given to Texas for the relinquishment of her title to the United States of the territory north of the proposed line. The committee, I hope with the approbation of the Senate, thought it best not to fill up that blank until the last moment, upon the final reading of the bill; that if it were inserted in the bill it would go out to the country, and might lead to improper speculation in the stock markets; and that therefore it was better to leave it out until the final passage of the bill. When we arrive at that point, which I hope we shall do in a short time, I shall be most happy to propose the sum which has been thought of by the committee.

Sir, the committee recommend the union of these three measures. If the Senator from Missouri will allow me the benefit of those two cannons pointed to this side of the House, (alluding to two volumes of Hatsel,) I will be much obliged to him. I believe the Senator from Missouri has them on his table.

Mr. BENTON. They are in the Secretary's office.

Mr. CLAY. The union of these three measures in one bill has been objected to, and has been already very much discussed in the Senate. Out of respect to the Senator from Missouri and to the Senate, I feel myself called upon to give some answer to the argument which he addressed to the Senate some days ago to show that it was improper to connect them together. I must begin by stating what I understand to be parliamentary law in this country. It consists, in the first place, of the Constitution of the United States and of the rules adopted by the two Houses of Congress; of the practice and precedents of Congress; and if you please, sir, Jefferson's Manual, which has been respected as authority, and used, I believe, in most of the deliberative bodies in this country. Now, sir, either the Senator from Missouri or myself totally misunderstands what is meant by Hatsel in the use of the word "tacking." We have no such thing as tacking in the English sense of the term. Jefferson has no chapter in his Manual on this subject of tacking. Hatsel has. Tacking in England is this: By the Constitution of England—or, in other words, by the practice of England, which makes her Constitution—money bills, supply bills, bills of subsidy, and aid of all kinds are passed by the House of Commons, sent to the House of Lords, and the Lords are obliged to take them word for word without making any amendment whatever. They are sent in that shape to the crown, and the crown is obliged to take them without amendment at all. The practice of tacking in England is confined to money bills. Knowing that a money bill is obliged to be passed without any alteration or amendment in the Lords, the Commons in England frequently, when they have a public object or measure to carry out, tack that measure to a money bill, and send it to the House of Lords. They know that the overruling necessity of the aristocracy and of the crown is such that they must, for the sake of the money granted to them, agree to that clause favorable perhaps to liberty, or to something else that is tacked on to it. The process of tacking in England is therefore objected to by the crown and by the aristocracy always. It is favorable to the Commons. It was more practised during the reign of the Stuarts than since. And according as the prevalence of the authority of the crown and the aristocracy, or of the public branch of the Legislature takes place, the practice of tacking is resorted to. Hence the quotation read by the Senator the other day from Chancellor Finch. The King always, and the Lords always complain of it. Hatsel, in the very loose and very unsatisfactory work of his which I have often had occasion to refer to, complains of it; but the fact is, the process of tacking in England is favorable to liberty; it is favorable to the Commons of England. It is less objected to by them, but it is always objected to by the crown and the aristocracy. Her Majesty would be glad to get the money without being obliged to make any concessions to her subjects; and the House of Lords would be equally disposed with her Majesty to think it very wrong to be compelled to swallow the whole. They would be willing to take the money, but they would have to take along with it the clause which has been tacked on in favor of personal liberty or of some rights of the subjects. Sir, I had intended to go into the details of this subject, by way of answer to the honorable Senator; but, really, I think it is hardly necessary. You find in the third volume of Hatsel that he has a chapter on the subject of bills tacked to bills of supply. I repeat, sir, that we have no such thing as that tacking process in this country. And why? Because, although tax bills and other money bills originate in the House of Representatives, and by the Constitution are required to originate there, the Senate has a right to amend, to strike out any clause, to reduce the tax, or to make any additions or amendment which they please. The Senate is under no such restraint as is the House of Lords in England. Hence we have no such thing as tacking, in the English parliamentary sense of the term. But tacking, even in England, was not res-

trained by the incongruity of the measures tacked together. Now, sir, the question is, whether there is any incongruity in these measures; a bill for the admission of California; a bill establishing a Territorial Government in Utah; a bill establishing a Territorial Government for New Mexico; and, what is indispensable, if we give her a government, a bill providing what shall be her boundary, provided Texas shall accede to the liberal proposal made to her? Is there anything, I ask, incongruous in all this? Where is it? What is the incongruity? What is the indignity? for I have heard time after time that it is undignified, or that it is ill-treating California, to attach her to those portions of territory acquired from Mexico, included in Utah and New Mexico. What is the indignity? I admit that in general, for the sake of simplicity of business, it is better not to make any one bill complex, or even to embrace too great a variety of subjects of a congruous nature. But that rests in the sound discretion of Congress. It rests in the pleasure of Congress. Sir, it has been said that California has set us a very good example, by providing by her constitution that no two subjects are to be united in the same bill. Louisiana has done the same thing in her constitution. Ask the Senator from Louisiana, or ask an honorable member of that Legislature, who has just arrived here from Baton Rouge, and they will tell you to what vast inconvenience legislative action is exposed, in consequence of this constitutional restriction. What are incongruous subjects, what are distinct subjects, is a matter not always absolutely certain. If anything which is thought incongruous is incorporated in a bill in that Legislature, it is sent to the judiciary, and if the judiciary thinks the subjects are incongruous, the law cannot be constitutional, because, in the opinion of the judges, it was in violation of the constitution, which declared that the Legislature should pass only a single subject in one bill. I have been told, and the Senator from Louisiana can state whether I have been correctly informed or not, that in two or three instances laws which have been passed by the Legislature of Louisiana have been declared unconstitutional, in consequence of this constitutional restriction upon legislative action, and the courts would not enforce them.

I have stated what I think ought to satisfy every body without dwelling upon it further. Now, sir, I will show you what has been done by Congress from time to time in the annexation of different subjects in the same bill. Here, sir, is volume second, page 396, chapter five, of The United States Statutes at Large, in which I find "An act to regulate and fix compensation for clerks, and to authorize the laying out of public roads, and for other purposes." The very title shows the incongruity of the subjects treated of. You will find in volume four, page 125, chapter 83, "An act to extend the time for the settlement of private land claims in the Territory of Florida, to provide for the preservation of the public archives in said Territory, and for the relief of John Johnson." [Laughter.] Here the name of the individual came last, but I have a case before me in which the individual came first. It is to be found in the Statutes at Large, private acts, volume six, page 813, chapter 99, entitled "An act for the relief of Chastelain and Pouvert, and for other purposes." And what do you suppose those other purposes to have been? About fifty appropriations such as ordinarily arise in the administration of Government. Will my friend read the extract for me?

Mr. UNDERWOOD accordingly read the extract as follows:

"*An act for the relief of Chastelain and Pouvert, and for other purposes.*

Be it enacted, &c. That the collector of the port of New York is hereby authorized to deduct from the amount of a bond given by Chastelain and Pouvert, for duties on merchandise imported in the schooner General Jackson, Hawes, master, from Nuevitas, in the Island of Cuba, such duties as may have been charged on that portion of said merchandise which was not landed in the United States, having been destroyed by fire in the harbor of New York, upon their producing proof to the collector of New York of the destruction of said merchandise.

And be it further enacted, That the following sums to pay the balance of accounts for which no appropriations now exist, and which have been passed upon and allowed by the proper accounting officers of the Government, or are now before them for audit, and for the payment of which appropriations are recommended by the heads of the proper Departments, be and the same are appropriated, viz: For an award made by the proper accounting officer of the Treasury in favor of the owners of the steamboats Stasea and Dayton, for services rendered under an agreement with Major Charles Thomas, quartermaster, for the transportation of supplies, laborers, and other things for the use of the works at Fort Smith, Arkansas, in the year 1838, $13,350. For payment of a balance due for supplies furnished to the Creek Indians, and medical

services rendered to those Indians, after the commencement of the disturbances in the Creek country, and before and during the removal of the said Indians west of the Mississippi, which accounts were incurred under the direction of the proper officers or agents of the Government, $7,741,44. For the payment of the expenses of a division of the lands of the Brothertown Indians among the members of the tribe, in obedience to the act of Congress of the 3d of March, 1839, entitled "An act for the relief of the Brothertown Indians in the Territory of Wisconsin," the duties having been performedand the accounts presented, $1,830.

Mr. CLAY. There are a great many others.

Mr. BENTON. What is the date of that act?

Mr. CLAY. It was approved July 1st, 1840; but I have one of a later date if the honorable Senator will prefer it. Here is one in 1849, "entitled an act for the relief of James Norris, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, directed to place the name of James Norris, of Sandwich, in the State of New Hampshire, on the roll of invalid pensioners, and pay him a pension at such rate per year as is provided by law for the total disability of an assistant surgeon in the navy of the United States, to commence on the 1st day of July, A. D. 1848, and continue during his natural life.

"Sec. 2. *And be it further enacted,* That there be, and hereby are appropriated, out of any money in the Treasury not otherwise appropriated, the following sums, for the government of the Territory of Minnesota:

"For salaries of governor, three judges, and secretary, nine thousand dollars.

"For contingent expenses of said Territory, three hundred and fifty dollars.

"For compensation and mileage of members of the Legislative Assembly, pay of the officers and attendants, printing, stationery, fuel, and other incidental expenses, thirteen thousand seven hundred dollars.

"Approved, March 3, 1849."

I never knew that our young sister Minnesota thought her dignity at all affected or offended by this association with James Norris. [Laughter.] There was a civil and diplomatic bill under consideration the last session. The Senator's recollection will assist me if it were not last session. To that bill the Senator from Missouri (Mr. BENTON) moved to add an amendment to pay certain expenses incurred in the conquest of California. At the second session of the 30th Congress the bill "making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1850, and for other purposes," being under consideration in the Senate, Mr. WALKER proposed an amendment, the object of which was to provide governments for the territory recently acquired from Mexico, including California, which was adopted: Yeas 29, nays 27. At the same session, the same bill being under consideration, Mr. WALKER, for the first time, proposed the amendment quoted above as agreed to. Mr. BELL proposed an amendment to the amendment of Mr. WALKER, which was disagreed to: Yeas 4, nays 39. *Senate Journal second session, 30th Congress pp.* 241–'43

I shall next notice an act making appropriations for the civil and diplomatic expenses of the Government for the year 1842. It will be found in the fifth volume of the Statutes at Large, page 476, chapter 29. To that act is annexed a proviso limiting the compensation which should be received for printing the laws and documents of Congress. The next subject I shall notice is an act to provide for the support of the Military Academy of the United States for the year 1838, and for other purposes. It will be found in volume fifth of the Statutes at Large, page 264, chapter 169. These are only some out of a multitude of the same kind that might have been produced of the passage of such laws, from time to time, founded upon the discretion and good sense of Congress, embracing subjects of every variety and incongruity. And yet, upon a bill which proposes to unite three subjects perfectly compatible in their nature, without the slightest incongruity existing between them—subjects which, at the last session, were proposed to be united together by the honorable Senator from Wisconsin, in his proposal for the adjustment of these unpleasant questions, it is all at once discovered that the powers of Government are paralyzed, that it is "tacking"—a word which has not yet been imported from England in her parliamentary law—it is all at once discovered that it is "tacking," a most dangerous and undignified course, which ought not to be sanctioned.

I mentioned, sir, awhile ago, acts which embraced every possible variety of legislation I referred to an act providing for the support of the Military Academy of the United States for the year 1838, and for other purposes. That act makes thirty or forty appropriations for different objects' It makes an appropriation for the documentary history of the revolution, for continuing the construction of the Patent Office, for furnishing machinery and other expenses incident to the outfit of the branch mints at New Orleans, Charlotte, and Dahlonega, for the salaries of the governor, chief judge, associate justices, district attorney, marshal, and pay and mileage of the members of the Legislative Assembly of the Territory of Iowa, the expense there of taking the census, and for other incidental and contingent expenses of that territory, and in relation to the investment in State stock of the bequest of the late James Smithson, of London, for the purpose of founding at Washington, in this District, an institution we denominate the Smithsonian Institution. These and various other acts are all comprehended in a bill making an appropriation for the Military Academy at West Point.

Now, sir, after this, can it be said that there is any want of power, or any non-conformity to the practice of Congress, in endeavoring to unite together, not three incongruous and discordant measures, but three measures of the same character, having, in a different form, the same general object?

I will pass on, with a single observation on an amendment introduced by the committee into the territorial bill. To that amendment I was opposed, but it was carried in the committee. It is an amendment which is to be found in the tenth section of one of the bills limiting the power of the Territorial Legislature upon the subject of laws which it may pass. Amongst other limitations, it declares "that the Territorial Legislature shall have no power to pass any law in respect to African slavery." I did not then, and do not now, attach much importance to the amendment, which was proposed by an honorable Senator, now in my eye, and carried by a majority of the committee. The effect of that clause will at once be understood by the Senate. It speaks of "African" slavery. The word African was introduced so as to leave the Territorial Government at liberty to legislate as it might think proper on any other condition of slavery—"Peon" or "Indian" slavery, which has so long existed under the Spanish regime. The object was to impose a restriction upon them as to the passage of any law either to admit or exclude African slavery, or of any law restricting it. The effect of that amendment will at once be seen. If the Territorial Legislature can pass no law with respect to African slavery, the state of the law as it exists now in the Territories of Utah and New Mexico will continue to exist until the people form a constitution for themselves, when they can settle the question of slavery as they please. They will not be allowed to admit or exclude it. They will be restrained on the one hand from its admission, and on the other from its exclusion. Sir, I shall not enlarge on the opinion which I have already announced to the Senate as being held by me on this subject. My opinion is, that the law of Mexico, in all the variety of forms in which legislation can take place—that is to say, by the edict of a dictator, by the constitution of the people of Mexico, by the act of the legislative authority of Mexico—by all these modes of legislation slavery has been abolished there. I am aware that some other Senators entertain a different opinion; but without going into a discussion of that question, which I think altogether unnecessary, I feel authorized to say that the opinion of a vast majority of the people of the United States, of a vast majority of the jurists of the United States, is in coincidence with that which I entertain; that is to say, that at this moment, by law and in fact, there is no slavery there, unless it is possible that some gentleman from the slaves States in passing through that country may have taken along their body slaves. In point of fact and in point of law, I entertain the opinions which I expressed at an early period of the session. Sir, we have heard since, from authority entitled to the highest respect, from no less authority than that of the delegate from New Mexico, that labor can be there obtained at the rate of three or four dollars per month; and, if it can be got at that rate, can any body suppose that any owner of slaves would ever carry them to that country, where he could only get three or four dollars per month for them?

I believe, on this part of the subject, I have said every thing that is necessary for me to say; but there remain two or three subjects upon which I wish to say a few words before I close what I have to offer for the consideration of the Senate.

The next subject upon which the committee acted was that of fugitive slaves. The committee have proposed two amendments to be offered to the bill introduced by the Sena-

tor from Virginia, (Mr. MASON,) whenever that bill is taken up. The first of these amendments provides that the owner of a fugitive slave, when leaving his own State, and whenever it is practicable—for sometimes, in the hot pursuit of an immediate runaway, it may not be in the power of the master to wait to get such record, and he will always do it if it is possible—shall carry with him a record from the State from which the fugitive has fled; which record shall contain an adjudication of two facts, first, the fact of slavery, and secondly the fact of an elopement; and, in the third place, such a general description of the slave as the court shall be enabled to give upon such testimony as shall be brought before it. It also provides that this record, taken from the county court, or from the court record in the slaveholding State, shall be carried to the free State, and shall be there held to be competent and sufficient evidence of the facts which it avows. Now, sir, I heard objection made to this that it would be an inconvenience and an expense to the slaveholder. I think the expense will be very trifling compared to the great advantages which will result. The expense will be only two or three dollars for the seal of the court, and the certificate and attestation of the clerk, &c. Sir, we know the just reverence and respect in which records are ever held. The slaveholder himself will feel, when he goes from Virginia to Ohio with this record, that he has got a security which he never possessed before for the recovery of his property. And when the attestation of the clerk, under the seal of the court, is exhibited to the citizen of Ohio, that citizen will be disposed to respect, and bound to respect, under the laws of the United States, a record thus exhibited coming from a sister State. The inconvenience will be very slight, very inconsiderable, compared with the great security of the slaveholder.

Mr. BUTLER. As the bill to which the Senator refers has been somewhat under my care, I am sure the honorable Senator will allow me to ask a question in relation to this amendment. Is it proposed that the certificate shall be from the judge or shall be from the court, as it is termed; because I see it seems to be inferred that it must be given by a court, and a court of record which has a technical meaning. I desire the honorable Senator to inform me whether it is thus to be given by a court or by a judge at chambers?

Mr. CLAY. Mr. President, I confess I had in view the county courts and courts of probate which prevail throughout the United States, and not the judge. But it can be so modified, if it be deemed essential in the progress of the bill.

The Committee partake of the same spirit which I have endeavored to manifest throughout this whole distracted question. They are not wedded to any particular plan; and if any amendments are offered that will improve and better the bills reported, they will be accepted. I am sure that I answer for every member of the committee, with pleasure, that any amendments to aid the object we have in view will be accepted. I repeat, sir, I confess I had in view that this record should be taken from the county courts, which prevail in almost all the States except Louisiana and South Carolina, which have their parish courts. Any one of these courts, after hearing evidence about the ownership of property and the escape of the property, could give the required record, and this would be carried to that part of the country where the parties go.

With respect to the other amendment offered by the committee to the fugitive bill, I regretted extremely to hear the Senator from Arkansas object so earnestly and so seriously to it. I do not pretend to question his right, or the right of any other Senator, but he will surely allow me to say, in all kindness, that of all the States in this Union, without exception, I will not except even Virginia herself, I believe that the State which suffers more than any other by the escaping of slaves from their owners, seeking refuge either in Canada, or in some of the non-slaveholding States, Kentucky is the one. I doubt very much whether the State of Arkansas ever lost a slave. They may, very possibly, once in a while, run off to the Indians, but very rarely. So of other interior States, such as Georgia and South Carolina. Sometimes, perhaps, a slave escapes from their seaports, but very rarely by land. Kentucky is the most suffering State, but I venture to anticipate for my own State that she will be satisfied with the provisions to which I am now about to call the attention of the Senate.

Mr. President, in all subjects of this kind we must deal fairly and honestly by all. We must recollect that there are feelings, and interests, and sympathies on both sides of the question, and no man who has ever brought his mind seriously to the consideration of a suitable measure for the recapture of runaway slaves, can fail to admit that the question is surrounded with great difficulties. On the one hand, if the owner of the

slave could go into the non-slaveholding State, and seize his negro, put his hands upon him, and the whole world would recognize the truth of his ownership of property, and the fact of the escape of that property, there would be no difficulty then in those States where prejudice against slavery exists in the highest degree. But he goes to a State which does not recognize slavery. Recollect how different the state of fact is now from what it was in 1793, nearly sixty years ago, when the fugitive law passed. There were, then, comparatively few free persons of color—few, compared to the numbers which exist at present. By the progress of emancipation in the slaveholding States, and the multiplication of them by natural causes, vast numbers of them have rushed to the free States. There are in the cities of Philadelphia, New York, and Boston—I have not looked into the precise number—some eight or ten to one in proportion to the number there were in 1793, when the act passed.

In proportion to the number of free blacks, multiplied in the free States, does the difficulty increase of recovering a fugitive from a slaveholding State. Recollect, Mr. President, that the rule of law is reversed in the two classes of States. In the slaveholding States the rule is, that color implies slavery, and the *onus probandi* of freedom is thrown on the persons claiming it, as every person in the slaveholding State is regarded *prima facie* as a slave. On the contrary, when you go to the non-slaveholding States, color implies freedom, and not slavery. The *onus* is shifted, and the fact of slavery must be proved. Every man who is seen in the free States, though he be a man of color, is regarded as free. And when a stranger from Virginia or Kentucky goes to a remote part of Pennsylvania and sees a black person, who perhaps has been living there for years, and claims him to be his slave, the feelings and sympathy of the neighborhood are naturally and necessarily excited in favor of the colored person. We all respect these feeelings, where they are honestly entertained. Well, sir, what are you to do in a case of that kind? You will give every satisfaction that can be given that the person whom you propose to arrest is your property, and is a fugitive from your service or labor. That is the extent of one amendment which we propose to offer, but there is also another. The amendment upon which I have been commenting provides for the production of a record. Now, what is the practical inconvenience of that? The other amendment provides that when the owner of the slave shall arrest his property in a non-slaveholding State, and shall take him before the proper functionary to obtain a certificate to authorize the return of that property to the State from which he fled, if he declares to that functionary at the time that he is a free man and not a slave, what does the provision require the officer to do? Why, to take a bond from the agent, or owner, without surety, that he will carry the black person back to the county of the State from which he fled; and that at the first court which may sit after his return, he shall be carried there, if he again assert the right to his freedom; the court shall afford, and the owner shalll afford to him all the facilities which are requisite to enable him to establish his right to freedom. Now, no surety is even required of the master. The committee thought, and in that I believe they all concurred, that it would be wrong to demand of a stranger, hundreds of miles from home, surety to take back the slave to the State from which he fled. The trial by jury is what is demanded by the non-slaveholding States. Well, we put the party claimed to be a fugitive back to the State from which he fled, and give him trial by jury in that State.

Well, sir, ought we not to make this concession? It is but very little inconvenience. I will tell you, sir, what will be the practical operation. It will be this: When a slave has escaped from the master and taken refuge in a free State, and that master comes to recapture him and take him back to the State from which he fled, the slave will cry out, "I do not know the man; I never saw him in my life; I am a free man." He will say anything and will do anything to preserve to himself that freedom of which he is for a moment in possession. He will assert most confidently before the judge that he is a free man. But take him back to the State from which he fled, to his comrades, and he will state the truth, and will disavow all claim to freedom. The practical operation, therefore, of the amendment which we have proposed, will be attended with not the least earthly inconvenience to the party claiming the fugitive. The case is bond without surety. That bond is transmitted by the officer taking it to the district attorney of the State from which he has fled. That officer sees that the bond is faithfully fulfilled, and that the slave is taken before the court. Perhaps, before the slave reaches home, he will acknowledge that he is a slave; there is an end of the bond and an end of the trouble about the matter. Is this unreasonable? Is it not a proper and rational concession to the prejudices, if you please, which exist in the non-slaveholding States? Sir, our rights are to be asserted; our rights are to be maintained. But they ought to be as-

serted and maintained in a manner not to wound unnecessarily the sensibilities of others. And in requiring such a bond as this amendment proposes to exact from the owner, I do not think there is the slightest inconvenience imposed upon him, of which he ought to complain.

Sir, there is one opinion prevailing—I hope not extensively—in some of the non-slaveholding States, which nothing we can do will concilitate. I allude to that opinion that asserts that there is a higher law—a divine law—a natural law—which entitles a man, under whose roof a runaway has come, to give him assistance and succor and hospitality. Where is the difference between receiving and harboring a known fugttive slave, and going to the plantation of his master and stealing him away? A divine law, a natural law! And who are they that venture to tell us what is divine and what is natural law? Where are their credentials of prophecy? Why, sir, we are told that the other day, at a meeting of some of these people at New York, Moses, and all the prophets were rejected, and that the name even of our blessed Savior was treated with blasphemy and contempt by these propagators of a divine law, of a natural law, which they have discovered, above all human laws and constitutions. If Moses and the prophets, and our Savior and all others, are to be rejected, will they condescend to show us their authority for propagating this new law, this new divine law of which they speak? The law of nature, sir! Look at it as it is promulgated, and even admitted or threatened to be enforced, in some quarters of the world. Well, sir, some of these people have discovered another plausible law of Nature. There is a large class who say that if a man has acquired, no matter whether by his own exertions or by inheritance, a vast estate, much more than is necessary for the subsistence of himself and family, I, who am starving, am entitled by a law of nature to have a portion of these accumulated goods to save me from the death which threatens me. Here are you, with your barns full, with your warehouses full of goods, collected from all quarters of the globe; your kitchens, and laundries, and pantries all full of that which conduces to the subsistence and comfort of man; and here am I standing by, as Lazarus at the gate of the rich man, perishing from hunger—will not the law of nature allow me to take enough of your superabundance to save me a little while from that death which is inevitable without I do it? Another modern law of nature is that the possession of more land than you can cultivate, is a forbidden monopoly; and that the parchment from Heaven supersedes the parchment from Government! Wild, reckless, and abominable theories, which strike at the foundations of all property, and threaten to crush in ruins the fabric of civilized society. Why, sir, trace this pretended law of nature, about which, seriously, none of the philosophers are agreed, and apply it to one of the most interesting and solemn ceremonies of life. Go to a Mahometan country, and the Mahometan will tell you that you are entitled to as many wives as you can get. Come next to a Christian country, and you will be told that you are entitled to but one. Go to our friends the Shakers and they will tell you that you are entitled to none. But there are persons in this age of enlightenment and progress and civilization, who will rise up in public assemblages, and, denouncing the church and all that is sacred that belongs to it—denouncing the founders of the religion which we all profess and revere—will tell you that, notwithstanding the solemn oath which they have taken by kissing the sacred book to carry out into full effect all the provisions of the Constitution of our country, there is a law of their God—a divine law, which they have found out and nobody else has—superior and paramount to all human law; and that they do not mean to obey this human law, but the divine law, of which, by some inspiration, by some means undisclosed, they have obtained a knowledge. That is the class of persons which we do not propose to conciliate by any amendment, by any concession which we can make.

But the committee, in considering this delicate subject, and looking at the feelings and interests on both sides of the question, thought it best to offer these two provisions—that which requires the production of a record in the non-slaveholding States, and that which requires a bond to grant to the real claimant of his freedom a trial by jury, in the place where that trial ought to take place, according to a just interpretation of the Constitution of the United States, if it take place any where. Therefore, in order to obviate the difficulties which have been presented, and to satisfy the prejudices in the non-slaveholding States, we propose to give the fugitive the right of trial by jury in the State from which he fled. The statement in the report of the committee is perfectly true that the greatest facilities are always extended to every man of color in the slaveholding States who sues for freedom. I have never known an instance of a failure on the part of a person thus suing to procure a verdict and judgment in his favor, if there were even slight grounds in suppo.t of his claim. And, sir, so far is the sympathy in behalf of a person suing for his

freedom carried, that few members of the bar appear against them. I will mention, though with no boastful spirit, that I myself never appeared but once in my life against a person sueing for his freedom, but have appeared for them in many instances without charging them a solitary cent. That I believe is the general course of the liberal and eminent portion of the bar throughout the country. One case I made an exception, but it was a case where I appeared for a particular friend. I told him: "Sir, I will not appear against your negroes unless I am perfectly satisfied that they have no right to freedom; and even if I shall become, after the progress of the trial, convinced that they are entitled to freedom, I shall abandon your cause." I venture to say, then, that in all that relates to tenderness of treatment to that portion of our population, and to the administration of justice to them, and the supply of their wants, nothing can be found in the slaveholding States that is not honorable and creditable to them.

Mr. President, the only measure remaining upon which I shall say a word now, is the abolition of the slave trade in the District of Columbia. There is, I believe, precious little of it. I believe the first man in my life that I ever heard denounce that trade was a Southern man—John Randolph, of Roanoke. I believe there has been no time within the last forty years, when, if earnestly pressed upon Congress, there would not have been found a majority, perhaps a majority from the slaveholding States themselves, in favor of the abolition of the slave trade in this District. The bill which the committee has reported is founded upon the law of Maryland, as it existed when this District was set apart and ceded to the United States. Maryland has since very often changed her laws. What is their exact condition at present I am not aware. I have heard that she has made a change at the last session, and I am told that they may again be changed in the course of a year or two. Sir, some years ago it would have been thought a great concession to the feelings and wishes of the North to abolish this slave trade. Now, I have seen some of the rabid abolition papers denounce it as amounting to nothing. It is nothing that slavery is interdicted in California! They do not care for all that. And will my friends, some of my friends on the other side of the house, allow me to say a word or two with respect to their course in relation to this measure. At the beginning of this session, as you know, that offensive proviso, called the "Wilmot proviso," was what was the most apprehended, and what all the slaveholding States were most desirous to get rid of. Well, sir, by the operation of causes upon the Northern mind friendly to the Union, hopes are inspired, which I trust will not be frustrated in the progress of this measure, that the North, or at least a sufficient portion of the North, are now willing to dispense with the proviso. When, the other day on the coming in of the report to these measures it was objected, by way of reproach, that they were simply carrying out my own plan, my honorable friend from North Carolina at the moment justly pointed out the essential differences between the plan, as contained in the resolutions offered by me, and that now presented by the committee. At the time I offered those resolutions, knowing what consequences, and, as I sometimes feared, fatal consequences, might result from the fact of the North insisting on that proviso, by way of compensation, in one of the resolutions which I offered—the second one—I stated two truths, one of law and one of fact, which I thought ought to satisfy the North that it ought no longer to insist on the Wilmot proviso. Those truths were not incorporated in the bill reported by the committee, but they exist, nevertheless, as truths. I believe them both now as much as I did in February last. I know there are others who do not concur with me in opinion. Every Senator must decide for himself, as the country will decide for itself, when the question comes to be considered. Well, when our Southern friends found they were rid of the proviso, they were highly satisfied, and I shared with them in their satisfaction. If I am not much mistaken, a great majority of them would have said, "If, Mr. Clay, you had not put those two obnoxious truths in them, we should have been satisfied with your series of resolutions." Well, sir, we have got rid of the Wilmot proviso, we have got rid of the enactment into laws of the two truths to which I refer, but I fear there are some of our Southern brethren who are not yet satisfied. There are some who say that there is yet the Wilmot proviso under another form, lurking in the laws of Mexico, or lurking in the mountains of Mexico, in that natural fact to which my honorable friend from Massachusetts adverted, as I myself did when I hinted that the law of nature was adverse to the introduction of slavery there. Now, as you find in the progress of events that all is obtained which was desired or expected three months ago, there is something further, there are other difficulties in the way of the adjustment of these unhappy subjects of difference, and of obtaining that which is most to be desired, the cementing of the bonds of this Union.

Mr. President, I do not despair, I will not despair, that the measure will be carried. And I would almost stake my existence, if I dared, that if these measures which have been reported by the committee of thirteen were submitted to the people of the United States to morrow, and their vote were taken upon them, there would be nine-tenths of them in favor of the pacification which is embodied in that report.

Mr. President, what have we been looking at? What are we looking at? The "proviso;" an abstraction always; thrust upon the South by the North against all the necessities of the case, against all the warnings which the North ought to have listened to coming from the South; pressed unnecessarily for any Northern object; opposed, I admit, by the South with a degree of earnestness uncalled for, I think, by the nature of the provision, but with a degree of earnestness natural to the South, and which the North itself perhaps would have displayed if a reversal of the conditions of the two sections of the Union could have taken place. Why do you of the North press it? You say because it is in obedience to certain sentiments in behalf of human freedom and human rights which you entertain. You are likely to accomplish those objects at once by the progress of events, without pressing this obnoxious measure. You may retort, why is it opposed at the South? It is opposed at the South because the South feels that, when once legislation on the subject of slavery begins, there is no seeing where it is to end. Begin it in the District of Columbia; begin it in the Territories of Utah and New Mexico and California; assert your power there to-day, and in spite of all the protestations—and you are not wanting in making protestations—that you have no purpose of extending it to the Southern States, what security can you give them that a new sect will not arise with a new version of the constitution, or with something above or below the constitution, which shall authorize them to carry their notions into the bosoms of the slaveholding States, and endeavor to emancipate from bondage all the slaves there? Sir, the South has felt that her security lies in denying at the threshold your right to touch the subject of slavery. She said, "Begin, and who can tell where you will end; let one generation begin and assert the doctrine for the moment, forbearing as they may be in order to secure their present objects, their successors may arise with new notions, and new principles, and new expositions of the constitution and laws of nature, and carry those notions and new principles into the bosom of the slaveholding States." The cases, then, gentlemen of the North and gentlemen of the South, do not stand upon an equal footing. When you, on the one hand, unnecessarily press an offensive and alarming measure on the South, the South repels it from the highest of all human motives of action, the security of property and life, and of every thing else interesting and valuable in life.

Mr. President, after we have got rid, as I had hoped, of all these troubles—after this Wilmot proviso has disappeared, as I trust it may, both in this and the other end of the Capitol—after we have been disputing two or three years or more, on the one hand about a mere abstraction, and on the other, if it were fraught with evil, not so much present as distant and future, when we are arriving at a conclusion, what are the new difficulties that spring up around us? Matters of form. The purest question of form that was ever presented to the mind of man—whether we shall combine in one united bill three measures, all of which are necessary and homogeneous, or separate them into three distinct bills, passing each in its turn if it can be done.

Mr. President, I trust that the feelings of attachment to the Union, of love for its past glory, of anticipation of its future benefits and happiness; a fraternal feeling which ought to be common throughout all parts of the country; the desire to live together in peace and harmony, to prosper as we have prospered heretofore, to hold up to the civilized world the example of one great and glorious Republic fulfilling the high destiny that belongs to it, demonstrating beyond all doubt man's capacity for self-government; these motives and these considerations will, I confidently hope and fervently pray, animate us all, bringing us together to dismiss alike questions of abstraction and form, and consummating the act of concord, harmony, and peace, in such a manner as to heal not one only, but all the wounds of the country.

SPEECH

OF

HENRY CLAY, OF KENTUCKY,

ON THE

COMPROMISE REPORT.

DELIVERED IN THE SENATE OF THE UNITED STATES, MAY 21, 1850.

The Senate having under consideration the special order, being the bill to admit California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and northern boundaries—and Mr. SOULE having addressed the Senate—Mr. CLAY said:

Mr. PRESIDENT: The debate has been conducted in this case with great irregularity. A single proposition was before the Senate, and that of an amendment to a particular section, in relation to the prohibition as to legislation by the Territorial Governments on the subject of African slavery. And, although this was the sole question pending before the Senate, Senators have launched out upon the broad ocean, and embrace, in the course of their arguments, the entire subject. Sir, I feel constrained, in vindication of the acts of the committee of which I was an humble member, to meet some of the arguments of the honorable Senators; and I will begin with the last, who has just sat down. The Senator from Louisiana finds himself unable to concur in the scheme of compromise which has been proposed. Will that Senator condescend to present a contre projet of his own, for the satisfaction and reconciliation of the people of this country? Will he tell us what he wants? Sir, this finding of fault, and, with the aid of a magnifying glass, discovering defects, descrying the little animalculæ which move upon the surface of matter, and which are indiscernible to the naked natural eye, is an easy task, and may be practised without any practical benefit or profitable result. It is the duty of the Senator who has just addressed us—it is the duty of all who assail this compromise, to give us their own and a better project; to tell us how they would reconcile the interests of this country and harmonize its distracted parts. And I venture to say that, upon every subject of which the learned Senator has treated, he has done great injustice to the acts of this committee. I do not mean to follow him throughout the whole course of his remarks, but I will take a rapid notice of his objections to the various features of this report.

Sir, he begun, if I am not mistaken, with that which relates to the recovery and restitution of fugitive slaves; and he said, with an air of great dissatisfaction, if not of derision, that the committee had brought back that bill with certain embarrassments instead of improvements. Sir, I beg you to recollect that the

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greatest objections made to the amendment relating to fugitive slaves come from States which are not suffering under the evil of having to recover fugitive slaves. I stated here the other day, what I repeat again now, that my own State is perhaps the State suffering most from this cause, while the State of Louisiana is among those States which suffer from it the least. And yet the honorable Senator from Louisiana, when we are satisfied with these provisions, sees in them objections which are insurmountable. And what are the embarrassments of which he complains? Why, sir, that the slave owner, in the pursuit of his fugitive property, has to carry with him a record! That instead of carrying with him, in pursuit of his slave, at great trouble and expense, witnesses and loose affidavits, he is fortified by an authentic record! That, I say, is an advantage and a protection to the slaveholder—a great advantage; for that record will command respect in the free States, and will give him an advantage which oral testimony or loose affidavits taken before a justice of the peace could never confer. The record, moreover, is a cumulative, not an exclusive remedy, leaving him free to employ the provisions of the act of 1793.

With respect to the other portion of the report which relates to this subject—that of trial by jury—where is the inconvenience of such a trial taking place in the State from which the fugitive has fled? In point of fact it will be no disadvantage, for there will not be one instance in a thousand where the bond to allow a trial by jury at home will incommode the slave owner, since the fugitive will be found to have asked for it as a mere pretext; and when he gets back to his own State he will, beyond all question, abandon that pretext. Sir, I put it to the honorable Senator whether he does not believe that this will be the case; and this, you will recollect, is proposed as a substitute and a satisfaction to the North of that trial by jury which they contend for at a distance from home, and which I have already insisted would amount to a virtual surrender of the constitutional provision. Moreover, it is granting to the slave only the right which he now indisputably possesses, in all the slaveholding States, of resorting to their tribunals of justice to establish his claim to his freedom, if he has one.

Mr. President, I find myself in a peculiar and painful position, in respect to the defence of this report. I find myself assailed by extremists every where; by under currents; by those in high as well as those in low authority; but, believing, as I do, that this measure, and this measure only, will pass, if any does pass, during the present session of Congress, I shall stand up to it, and to this report, against all objections, springing from whatever quarter they may.

Sir, it was but the other day that I found myself reproached at the North for conveying an alleged calumny of their institutions by saying that the trial by jury, in this particular description of case, could not be relied upon as a remedy to the master who had lost his slave; as if I had made any such charge on Northern judges and juries, in ordinary cases, in the way of reproach, or had not applauded the administration of justice both in our State and our Federal courts generally. But I urged that, if, in Massachusetts, you require a Kentuckian, going in pursuit of his slave there, to resort to a trial by jury on the question of freedom or slavery of a fugitive, it would be requisite, in consequence of such an assertion of privilege on the part of the fugitive, that the parties should produce testimony from the State of Kentucky; that you will have to delay the trial from time to time; that there must be a power to grant a new trial, and that a supervisory power would be necessary when you come to a final trial; that distant and foreign courts would be called on to administer the unknown laws of a remote commonwealth; and that, when you sum up the expenses and charges at the end of the case, although the owner may eventually recover his property, the contest to regain it would have cost more than it is worth; that, in short, he might be largely out of pocket, and that he would find he had better never have moved at

all in the matter. That was the argument which I used; and yet, at the North, I am accused of casting unmerited opprobrium upon the right of trial by jury and the administration of justice; while at the South, in another and the last extreme, from which I should have expected any thing of the kind, I find that this amendment is objected to as creating embarrassments to the owners of fugitive slaves. Sir, this is something like the old song—

> "I do not like thee, Doctor Fell,
> The reason why I cannot tell;
> But this I know, and know full well,
> I do not like thee, Doctor Fell."

Such, Mr. President, are their objections to this measure.

Now, let us follow the honorable Senator from Louisiana a little further. One of his great objections was to the clause which prohibits the Territorial Legislatures from passing any law in respect to African slavery within the Territories. Did the honorable Senator know the history of that clause? Did he know that that clause was moved in the Committee of Thirteen by his own colleague? Did he know that that clause was voted for by every Southern member on that Committee, except myself, if I am so to be denominated, contrary to what is my usual habit of denominating myself? Every Southern man on that Committee voted for the clause which is the theme of the Senator's criticism to-day, against my opinion, and that of all the Northern members of that Committee, with, I believe, one solitary exception. And yet, the moment it presents itself, although it comes under Southern auspices, it is objected to!

Again, I ask the honorable Senator from Louisiana, if this is to be rejected, tell us what you want; put it down in black and white; put down your project; compare it with that of the Committee, and let us know the full extent of your demands, and then we shall be able to pass judgment upon them, approving them if we can; and do not restrict yourselves, in this unstatesmanlike manner, to the mere finding of fault with what is already proposed, without offering a solitary substitute for the measure you oppose.

Now, sir, the honorable Senator raises great objection to this clause of prohibition. He tells us that no police regulations can be made. Either there is slavery there or there is not. If there is no slavery there, then there is no need of any police regulations. If there be slavery there, then the necessary police regulations exist already. And I imagine that they will be found sufficient, as they have already been found in time past; at all events, from the present time until the time when States shall be formed out of these Territories. Now, let him escape from that dilemma if he can. I repeat it, if there is slavery there, there are police regulations; if there is no slavery, then none are required.

Sir, the aim of the Committee, in the introduction of that clause—I speak for every member of it, and the honorable mover of it as well as others—was simply to do this: to declare that the Territorial Legislatures should have power neither to admit nor to exclude slavery. That was our purpose—our sole purpose; and, if the amendment does not accomplish that purpose, would it not be more consistent with a spirit of amity—with that desire of settling these questions, which, I trust and hope, animates the Senator from Louisiana as well as others—would it not have been more conformable to that spirit to have moved an amendment, simply providing against the admission or exclusion of slavery in these territories, leaving them free to establish any police regulations they please, than to have attacked this measure in the manner in which he has done, as if that clause contained some new and dangerous principle to be guarded against; and as if it did not embody the exact principle for which the South has uniformly contended?

Again, the honorable Senator objects to the clause interdicting the slave trade in the District of Columbia. He objects to it on two grounds. In the first place,

because the Committee do not affirm in their report that there is no constitutional power in Congress to pass upon the subject of slavery in this District. Now, what is the opinion of the Senator and of the Senate upon this subject? A large portion, probably a majority of the Senate, believes that Congress has the power; another portion believes that Congress has no such power. And how does the honorable Senator expect to arrive at a compromise in which one of the opinions shall be made to triumph over the other? How does he expect that those Senators who think that the power does exist in Congress to abolish slavery in the District of Columbia are to plunge their hands into the inmost recesses of their souls, and drag out that truth which lies there? If he wants a compromise, he must take it without asking Senators, on the one side or on the other, to repudiate their fixed and deliberate opinions; if he does not want a compromise, then let him insist that one class of Senators shall surrender the opinions which they hold to the other class. Sir, I thought that the Committee were on that subject as happy as they could be. The report neither affirms nor denies the power of Congress to abolish slavery in the District of Columbia. It says that it ought not to be done; and he who thinks it ought not to be done upon constitutional grounds, ought to be satisfied; and he who thinks it may be done constitutionally, but who believes that it ought not to be done, from considerations of expediency or kindness, or fraternal regard towards other portions of the country, ought also to be satisfied. Thus, by neither affirming nor denying the power, but by asserting that the power ought not to be exercised, I say it is a compromise with which all ought I think to be perfectly satisfied. Does the honorable Senator expect that my learned friend in my eye, (Mr. Webster,) who has no doubt about the power, will give up that opinion? Does he expect that he will renounce his deliberate, well considered, and well formed opinions, which he has entertained for years? Does the South expect to succeed in any such demand as that? Will the Senator from Louisiana demand it? If he does, he demands that there shall be no compromises, no settlement of the questions which are now agitating the country.

But, sir, the honorable Senator has misconceived the bill for abolishing the slave trade which the committee have reported. This bill is a mere adoption of the law of Maryland. I will here mention a fact which shows how wrong it is to prejudge a thing. An honorable friend of mine, in my eye, has suggested that the object can be accomplished in a certain mode; and I should like to know, from the Senator from Louisiana, whether he thinks it attainable and acceptable in that way or not? The introduction of slaves now into this District, either for sale or for being placed in *depot* for subsequent transportation, arises out of two laws which were passed by Congress itself, one in the year eighteen hundred and two, and the other some years after, permitting it to be done. The Senator to whom I have referred, observed to me some time ago: "Mr. Clay, you can accomplish your object simply by repealing these two laws, and by leaving the state of the law where it was before Congress allowed by law the introduction of slavery into this District." I have not examined the two acts of Congress; but, as I know the Senator to be familiar with the laws of this District and the laws of Maryland, I have no doubt that he is right. Now, if instead of adopting the law of Maryland, which, in other words, is the bill proposed by the committee, we had proposed simply to repeal these two acts of Congress, in virtue of which alone slaves have been introduced into the District for the purpose of being transported to New Orleans and elsewhere, would he think it wrong, would he think it unconstitutional? Would he think it was alarming to the rights of the people of the South for Congress to repeal its own laws? Sir, where there is a disposition to look at things with an impartial and a candid eye, and to look at all the interests of all the parts of the country, and all the

opinions, and all the prejudices, if you will, of our fellow-citizens, we shall be much more likely to arrive at a satisfactory and harmonious result, than by attaching ourselves to a single position, and viewing from that point every thing, and seeking to bring every thing to the standard of our own peculiar opinions, our own bed of Procrustes.

The Senator is mistaken in saying that a resident of the District cannot go out of the District and purchase a slave and bring him here for his own use.

Mr. SOULE. I feel assured that the honorable Senator has misunderstood me. I have merely stated that the effect of this section, if I understand it well, will be to preclude the introduction into the District of any slave for the purpose of being sold, even if it were for the purpose of supplying the necessities of those inhabiting the District; and I know that the honorable Senator will do me the justice, on looking at the section, to admit that such will be its legal effect.

Mr. CLAY. Well, what is the inconvenience of it? A slave cannot be brought within this place for sale and be here sold, but a man who wants a slave here may go to the distance of five miles and purchase one, and bring him here, not for sale, but for his own use. The real amount of inconvenience then, is, that a resident within the District will have to travel five miles to purchase a slave, instead of the slave being brought here to be sold. There is nothing whatever within the bill which prohibits a resident in the District from going out of the District and purchasing a slave for his own use. The only prohibition is, that no slave can be brought into the District or into market for sale, as merchandise, without a forfeiture. But, sir, I repeat, that, by the repeal of the laws under which this is done, all difficulty might have been obviated; and so it will probably be, if the bill be allowed to take its usual course.

No part of this compromise seems to receive the commendation of the Senator from Louisiana, or to afford him any solace or satisfaction. He says that it has been contended by me and by others, that the law of Mexico abolished slavery, and that it does not exist there by law, and is not likely to be introduced there, in point of fact. I cannot renounce that opinion. It is impossible in my nature for me to do so. I cannot disbelieve what I believe. But the honorable Senator has taken up the greater portion of the time in which he has so ably and eloquently addressed us, to prove—what? That that opinion of mine is incorrect. He has gone into an historical account of the abolition of slavery in Mexico; he has gone into the negotiations which led to the conclusion of the treaty of Hidalgo; he has gone behind the negotiations into the instructions given with regard to the proposition of the Mexican commissioners, forbidding the introduction of slavery into the ceded Territories. He has come into the Senate, and traced what has been done in this body, in order to prove that even here, by the negative of a proposition, moved, I believe, by a Senator from Connecticut, there was an implied purpose on the part of Congress to allow slavery, or rather to recognize it there. Now, cannot the Senator be satisfied with his own view? He thinks that slavery is not abolished there. I know that he is much more eminent as a jurist than I ever aspire to be. Why, then is he not satisfied with his own opinion? Will he not, in a spirit of liberal toleration, allow an opposite opinion to be entertained? But the objection to the measure is that, although this proposes to be a settlement of all the questions involved, yet there is one question which is left unsettled, that of the *lex loci* in regard to slavery in these territories, which ought to have been adjusted. Will he tell me how it could be settled? Will he or any body else tell me how it can be settled, otherwise than by the Supreme Court of the United States, whether the law of Mexico did or did not abolish slavery within the limits of those Territories? That is what the committee proposes to do. They

have recommended this plan to the consideration of the Senate, and of the country, as a measure of general compromise, which would settle all the questions that were practicable or possible for legislation to settle. The question which the Senator supposes is left unsettled, can only be settled by the Supreme Court of the United States, and there it is left.

Now, sir, it is a little remarkable that the Senator argued with such great ingenuity, and great earnestness, that, according to the local law of Mexico, slavery was not abolished; that, according to the local law of Mexico, there was a right on the part of the slaveholder to carry his slaves there; that, according to that local law, and the Constitution of the United States, that right exists. If it does, ought not the Senator to be satisfied? Why, I should suppose that it was all that he wanted. He says that the right to carry slaves there exists, and that Congress has no power to legislate on the subject of slavery one way or the other. What more then, does he want? He says that the *lex loci* admits the existence of slavery. Then has not the honorable Senator got precisely what he wants?

Mr. SOULE. The honorable Senator does me injustice. I expressly admitted that slavery was abolished by the Mexican law I never raised a doubt upon that question. Slavery has been abolished within the limits of Mexico by the constitutional power of Mexico. So far as that goes, therefore, there cannot be the shadow of a doubt in the mind of any one, that if the Mexican law prevails, slavery is already abolished and utterly eradicated.

Mr. CLAY. I understood the Senator to be assailing the opinion which I entertained and expressed.

Mr. SOULE. I certainly did not.

Mr. CLAY. Be that as it may, the honorable Senator contends for that which is equivalent to the non-abolition of slavery by the Mexican law—that the right to carry slaves into the ceded Territories was restored by virtue of the Constitution of the United States.

Mr. SOULE. That is it.

Mr. CLAY. That, then, is what the Senator contended for. Very well, then. If, by the Constitution of the United States, there is a right, on the part of every slaveholder in this country, to carry slaves into the ceded Territories, (which I certainly do not believe or admit,) what more does the Senator want? He talks about the *statu quo*. The *statu quo* is precisely what I should suppose him to want. But, superadded to that, if that be with him, is the Constitution of the United States. And yet he is not satisfied. Does he wish the Constitution to be re-enacted? Can the paramount authority be strengthened by an act of subordinate power? Would he recommend the introduction of the Wilmot proviso into the bill, or a legislative enactment to admit slaves, because the plan of the Committee is silent upon that subject? The Senator is not satisfied with this compromise. Will he tell us now, in so many words, what he would put into an act of Congress to satisfy himself on the subject of slavery? I should be extremely happy to hear it.

Mr. SOULE. I am ready to answer the honorable gentleman at once. I will be satisfied with this section of the bill if the amendment proposed by the Senator from Mississippi prevail. That is all I want. I am willing to abide by that section, provided the amendment proposed by the Senator from Mississippi, and which I have this morning sustained, be adopted. I will also be satisfied with other portions of the bill, if reasonable amendments shall be made.

Mr. CLAY. I am happy to find that there is some possibility that the Senator may yet vote with us. Perhaps I should have been less earnest if I had not despaired of ever obtaining his vote. I really thought that, from the course of his argument, and from the manner in which he treated every proposition contained

in the report, he was a gone case; that he was hopeless; that nothing could reconcile him to any scheme that the Committee could propose. I regret, however, to perceive that the Senator, in announcing what would satisfy him, restricts himself to *this section*. But, now, I should like to know what other law the Senator wants upon the subject of slavery than the paramount law of the Constitution of the United States?

Mr. SOULE. Protection.

Mr. CLAY. The paramount law of the Constitution affords that protection.

Mr. SOULE. I think it does not afford that protection.

Mr. CLAY. Will the Senator be satisfied with striking out the clause?

Mr. SOULE. I will be satisfied with that clause, provided it be modified as proposed by my friend from Mississippi.

Mr. CLAY. But that amendment the Senator knows I cannot agree to, because it assumes a fact the existence of which I deny. It assumes the fact that slaves are there. I maintain that there are none there, except here and there a body servant that has been carried there by those who are sojourning or travelling through the country.

If the Senator will be satisfied with striking out the clause, I will vote to strike it out, because I voted against putting it in. Or I would consent to its being so modified as to declare that the Territorial Legislature shall neither admit or exclude slavery, which will leave it open to police regulations. If the Senator will be satisfied with that, I am content. But, if the Senator desires, by any indirect means, by any clause which goes beyond its professed object, by any implication which can result from that clause, to assert either that slavery exists now in that country, or that it is lawful to carry it there under the Constitution of the United States, I, for one, cannot agree to it. If the Senator will agree to the modification of the clause, so as to declare that the Territorial Legislature shall pass no laws either to admit or exclude slavery——

Mr. WEBSTER. Respecting the establishment or exclusion of slavery.

Mr. CLAY. Certainly. If the Senator will agree to modify the clause so as to declare that the Territorial Legislature shall pass no laws respecting the establishment or exclusion of slavery, I will go for it with pleasure.

Mr. SOULE. I wish not to misunderstand the honorable Senator, but if I understood his argument, it seems to imply that the amendment proposed by the honorable Senator from Mississippi, assumes the existence of slavery there. I cannot concur with him in that. The amendment assumes that slaves may be there, but it certainly will not carry them there if they be not already there. And if any right exists under the state of things which that asserts, I cannot conceive what serious objections can be entertained on the part of the honorable Senator, to the amendment proposed by the Senator from Mississippi. It only protects whatever rights may exist there. It does not give any right. It only seeks to protect such rights as, under the Constitution of the United States, may now or hereafter exist. For these reasons I shall vote for the amendment. I beg the pardon of the honorable Senator for interrupting him.

Mr. CLAY. Well, sir, if the honorable Senator will be satisfied with such an amendment as I have suggested, and which I understood the other day was satisfactory to most gentlemen on that side of the house—an amendment declaring that the Legislatures of the Territories shall neither establish nor exclude slavery—I am content. Then it will leave open all these questions of right to be settled under the Constitution of the United States, and all those matters of police which are stated to be desirable. But I cannot agree to an amendment which, in point of fact, assumes that slavery has an existence there at this time, and assumes in point of law that, under the Constitution of the United States, there is a right to carry slaves there. I cannot vote for either proposition. I repeat that I

am ready to vote to strike out the clause, to retain the clause, or to modify the clause in the way that I have suggested, which will accomplish all the objects sought for on the other side of the house, if I understand them.

Now, Mr. President, I am not going, at this time of the session, and at this stage of the progress of this measure, to discuss the question of the validity of the laws of Mexico. The question whether the opinions expressed by me and by others, or the opposite ones, be right, can only be decided by the Supreme Court of the United States, upon a proper case brought before that tribunal. We go as far as we can to settle all these questions. We establish governments there and courts there, from which courts appeals may be taken, according to the express provisions of the bill, to the Supreme Court of the United States. A question as to whether or not the Mexican laws prevails in these Territories or whether the Constitution admits slaves to be taken there, can only be decided by that tribunal.

Mr. President, I will not say any thing more with respect to the able, ingenious, and eloquent argument of the Senator from Louisiana; but I will proceed to the other subjects which I propose to discuss. I am not one of those who, either at the commencement of the session or at any time during its progress, have believed that there was any present actual danger to the existence of the Union. But I am one of those who believe that, if this agitation is continued for one or two years longer, no man can foresee the dreadful consequences. A dissolution of the Union, the greatest of all calamities in my opinion which can befall this country, may not in form take place; but next to that is a dissolution of those fraternal and kindred ties that bind us together as one free, christian, and commercial people. In my opinion, the body politic cannot be preserved unless this agitation, this distraction, this exaspiration, which is going on between the two sections of the country, shall cease. Unless it do cease, I am afraid that this Union, for all the high and noble purposes for which our fathers formed it, will not be preserved.

Mr. President, I will go so far as to venture to express this opinion, that unless this measure of compromise, not the exact words of the bill—for the committee, I am sure, will agree to any amendments or modifications which will better the measure—but unless some measure of this kind pass, I hazard the prediction that nothing will be done for California, nothing will be done for the Territories, nothing upon the fugitive slave bill, nothing upon the bill which interdicts slavery in this District. Unless some such measure prevail, instead of healing and closing the wounds of the country, instead of stopping the effusion of blood, it will flow in still greater quantities, with still greater danger to the republic. And I repeat, that in my opinion the measures upon your table, with such amendments as it may receive, or some tantamount measure, must pass, or nothing passes upon all the subjects to which the report refers.

Let us look at the subject. If you do not pass this measure, there is a possibility, some gentlemen will say a high probability, that the California bill will not pass. I have no doubt myself but that there are large majorities in both Houses of Congress in favor of the admission of California into the Union; but from causes upon which I shall not dwell, and which are adverted to by me not with pleasure, but with pain, I am afraid that that bill never will pass the two Houses as a measure by itself. What, then, will be the condition of the country? Let us suppose that Congress does nothing; let us suppose that it fails to furnish a remedy for any one of the evils which now afflict the country. Suppose we separate and go home under those mutual feelings of dissatisfaction and discontent which will arise out of the failure of Congress to adjust these questions. I will say nothing of the reproach and opprobrium that would be brought upon us by all christendom. I will say nothing of those

who are looking upon us with anxious solicitude, under the hope that we will fulfil all the expectations and fulfil the high destinies which appertain to one among the greatest of all countries. I will say nothing of that large portion of mankind who are gazing with intense anxiety upon this great experiment in behalf of man's capacity for self-government and man's freedom. I will say nothing of all this. Suppose, then, that after the lapse of six or seven months, during which we were vainly endeavoring to reconcile the distracted and divided parts of the country, we go home full of the feelings of rage and animosty, one section against another? In such a state of feeling can the Republic long continue? Let us suppose, however, that you reject this bill and pass the the California bill, and go home in that state of things; what will not the South say? What reproaches will it not level at the North upon this subject? They will say to the North, "You got all you wanted; you got the substitute for the Wilmot proviso; you have got a clause much more potent, much more efficacious than that; you have got the interdiction of slavery into the Constitution of California; you have got all you wanted for the present, and have refused us every thing; you have seized upon California, and hereafter, from time to time, you mean to appropriate the whole of our acquisitions to your exclusive benefit. In that state of feeling, of mutual exasperation and excitement, with a heated press, with heated parties, with heated lecturers, with heated men, how can you expect hereafter to come back to this theatre of strife and contention calm and composed, to settle difficulties which six months of earnest and anxious labor have not enabled you to adjust?

It is said that nothing has been done for the South in the establishment of these Territorial Governments; nothing in this measure of compromise. What, sir! Is there nothing done for the South when there is a total absence of all Congressional action on the delicate subject of slavery; when Congress remains passive, neither adopting the Wilmot proviso, on the one hand, nor authorizing the introduction of slavery on the other; when every thing is left in *statu quo?* What were the South complaining of all along? The Wilmot proviso—a proviso, which if it be fastened upon this measure, as I trust it may not be, will be the result, I apprehend, of the difficulty of pleasing Southern gentlemen. Their great effort, their sole aim has been for several years to escape from that odious proviso. The proviso is not in the bill. The bill is silent; it is non-active upon the subject of slavery. The bill admits that if slavery is there, there it remains. The bill admits if slavery is not there, there it is not. The bill is neither Southern nor Northern. It is equal; it is fair; it is a compromise, which any man, whether at the North or the South, who is desirious of healing the wounds of his country, may accept without dishonor or disgrace, and go home with the smiles which the learned Senator regretted he could not carry with him to Louisiana. They may go home and say that these vast Territories are left open. If slavery exists there, there it is. If it does not exist there, it is not there. Neither the North nor the South has triumphed; there is perfect reciprocity. The Union only has triumphed. The South has not triumphed by attempting to introduce slavery, which she would not do if she could, because she maintains (although it is not my own individual opinion) that Congress has no right to legislate on the one hand for its introduction, or on the other for its exclusion. Nor has the North been victorious. She may, indeed, and probably will, find her wishes ultimately consummated by the exclusion of slavery from our territorial acquisitions; but if she does, that ought not to be an occasion of complaint with the South, because it will be the result of inevitable causes. The bill has left the field open for both, to be occupied by slavery, if the people, when they are forming States, shall so decide; or to be exclusively devoted to freedom, if, as is probable, they shall so determine.

Now let me call the attention of the Senate to a very painful duty, which I am constrained to perform, and which I shall perform, let it subject me to what misinterpretation it may, here or elsewhere. I mean the duty of contrasting the plan proposed by the Executive of the United States with the plan proposed by the Committee of thirteen. If the Executive has a friend—(I do not mean exactly that, because I believe and wish myself to be a friend of the Executive, feeling most anxious to co-operate him)—but if there be a friend of the Executive who supports his measure *to the exclusion of that of the Committee*, will he stand up here, and meet us face to face upon the question of superiority of the one measure to the other? Let us here, and not in the columns of newspapers, have a fair, full, and manly interchange of argument and opinion. I shall be ready to bear my humble part in such a mental contest. Allow me to premise by assuming, in the first place, that every friend of his country must be anxious that all our difficulties be settled; and that we should once more restore concord and harmony to this country.

Now, what is the plan of the President? I will describe it by a simile, in a manner which cannot be misunderstood. Here are five wounds—one, two, three, four, five—bleeding and threatening the well being, if not the existence of the body politic. What is the plan of the President? Is it to heal all these wounds? No such thing. It is only to heal one of the five, and to leave the other four to bleed more profusely than ever, by the sole admission of California, even if it should produce death itself. I have said that five wounds are open and bleeding. What are they? First, there is California; there are the Territories second; there is the question of the boundary of Texas the third; there is the fugitive slave bill the fourth; and there is the question of the slave trade in the District of Columbia fifth. The President, instead of proposing a plan comprehending all the diseases of the country, looks only at one. His recommendation does not embrace, and he says nothing about the fugitive slave bill or the District bill; but he recommends that the other two subjects, of Territorial Government and Texas boundary, remain and be left untouched, to cure themselves by some law of nature, by the *vis medicatrix naturæ*, or some self-remedy in the success of which I cannot perceive any ground of the least confidence. I have seen with profound surprise and regret, the persistance—for so I am painfully compelled to regard the facts around us—of the Chief Magistrate of the country in his own peculiar plan. I think that, in a spirit of compromise, the President ought to unite with us. He recommends the admission of California. We are willing to admit California. We go with him as far as he goes, and we make its admission compose a part of a general plan of settlement and compromise, which we propose to the consideration of the Senate. In the spirit of compromise which, I trust, does, and which I know ought to, animate both ends of Pennsylvania avenue, we had a right to suppose, when the Committee announced in its report that it was satisfied with his recommendation, so far as it went, but that it did not go, in our respectful judgment, far enough, and that we therefore offered our measure to close up the four remaining wounds—I think, that in a spirit of peace and concord, and of mutual confidence and co-operation, which ought to animate the different departments of the Government, the President, entertaining that constitutional deference to the wisdom of Congress which he has professed, and abstaining, as he has declared he would abstain, from any interference with its free deliberations, ought, without any dissatisfaction, to permit us to consider what is best for our common country. I will go a little further in this comparison, which I make most painfully. After the observations which I addressed to the Senate a week ago, I did hope and trust there would have been a reciprocation from the other end of the avenue, as to the desire to heal, not one wound only, which being healed alone would exasperate and aggravate instead of harmonizing the country, but to

heal them all. I did hope that we should have had some signification, in some form or other, of the Executive contentment and satisfaction with the entire plan of adjustment. But, instead of concurrence with the Committee on the part of the Executive, we have an authentic assurance of his adherence exclusively to his own particular scheme.

Let us look at the condition of these Territories, and I shall endeavor to do what has been done with sufficient precision, to discriminate between non-action or non-intervention in regard to slavery, and non-action as it respects the government of the people, who, by the dispensations of Providence, and the course of events, have come to our hands to be taken care of. To refrain from extending to them the benefit of government, law, order, and protection, is widely different from silence or non-intervention in regard to African slavery.

The recommendation of the President, as I have already said, proposes the simple introduction of California as a State into the Union—a measure which, standing by itself, has excited the strongest symptoms of dissatisfaction in the Southern portions of the confederacy. The recommendation proposes to leave all else untouched and unprovided for. In such an abandonment, what will be the condition of things? The first approximate Territory to California is Utah, and in what condition is that left by the President's message? Without any government at all. Without even the blessing or curse, as you may choose to call it, of a military government. There is no government there, unless such as the necessities of the case have required the Mormons to erect for themselves. Until the common parent shall have spread its power and its authority over them, they have no adequate government.

Then next come to New Mexico, and in what condition does the President's message leave her? With a military government; a military government which, administered as it is proposed to be, is no government. While upon this part of the subject, let me call your attention to what has been said by the Delegate from that Territory, in a feeling address which he has recently published to the people of New Mexico.

Mr. UNDERWOOD, at the request of Mr. CLAY, read the following extracts:

"Why have our rights, which are certainly indisputable, been so long withheld? Why have we been compelled to live under a military domination, so repugnant to freemen, and so opposed to the acknowledged spirit and foundation of this Government! Why, our condition, instead of being improved by the transfer of allegiance, as was promised to us, has been continually getting worse. Why has this Government so long neglected giving you that protection against Indian depredations which was so often promised, both before and since the treaty of cession? Why, the connexion with this Government, which you have been encouraged to look forward to as the beginning of your prosperity and improvement, has had its opening with three years of depredation, miserable misrule, and military despotism."

Again: "It is useless for me to remind you that you have no other than a military government to administer the civil laws with which you came into the Union, (and under which you and your ancestors have lived for two centuries.) What other Executive have you but the commander of the troops in New Mexico? Does he not absolutely control all the civil establishments of your country? Is there a civil officer but holds his office by commission from the military officer during his will and pleasure? Has he not indeed assumed to order the courts whom to bring to trial, and in every way prescribe their jurisdiction? And when the Secretary of War commands him not to interfere, or prevent the officers from Texas to exercise their commissions in your Territory, can that be called a neutrality? Is it not a virtual abandonment of the government?"

Mr. CLAY. Mr. President, with regard to Utah, there is no government whatever, unless it is such as necessity has prompted the Mormons to institute; and when you come to New Mexico what government have you? A military government, by a lieutenant colonel of the army! A lieutenant colonel, a mere subordinate of the army of the United States, holds the governmental power there, in a time of profound peace. Stand up, Whig who can—stand up, Democrat who

can, and defend the establishment of a military government in this free and glorious Republic, in a time of profound peace! Sir, we had doubts about the authority of the late President to do this in time of war, and it was cast as a reproach against him. But here, in a time of profound peace, it is proposed, by the highest authority, that this government, that this military government—and by what authority it has continued since peace ensued I know not—should be continued indefinitely, till New Mexico is prepared to come as a State into the Union. And when will that be? There are now about ten thousand people there, composed of Americans, Spaniards, and Mexicans; and about 80,000 or 90,000 Indians, civilized, uncivilized, half civilized, and barbarous people; and when will they be ready to come in as a State? Sir, I say it under a full sense of the responsibility of my position, that if to-morrow, with such a population, and such a constitution as such a population might make, they were to come here for admission as a State, I for one would not vote for it. It would be ridiculous, it would be farcical, it would bring into contempt the grave matter of forming commonwealths as sovereign members of this glorious Union. She has no population in sufficient numbers morally capable of self-government; nor will she have for many years to come such a population as will make it proper to admit her as a State. And yet the plan of the President is to leave this military government under this lieutenant colonel in full operation, declaring as he does, in opposition to evidence, that they have a very good government there now.

But what sort of a government does this lieutenant colonel placed over them administer to his subjects? Why, I suppose one of the greatest and first duties of government is to give protection to the people, to give defence to the Territory which he governs, and to repel invasion from the limits of the country. And how does this military commander, acting as it is said under the authority of the Secretary of War, behave upon the first approach of an invasion? While commissioners are sent there as pioneers in the work of bringing all that part of New Mexico on this side of the Rio del Norte under the authority of Texas as the territory of Texas, what does this military governor do, or proposes to do, to protect those people and repel invasion, and to protect the domain? He says he means to be *neutral*, and has instructions from headquarters to be neutral in this contest between the people of Santa Fe or New Mexico and Texas! The governor of this people, who are opposed to the jurisdiction of Texas, says he means to take no part with those whom he governs, but to leave them to fight it out as well as they can with the power of Texas. What American can say that, under the circumstances, this course is justifiable; and what will become of the sacred obligations of the treaty of Hidalgo? Of all the honorable distinctions which characterize man in his social and aggregate, or his individual character, that of good faith, of the honorable fulfilment of obligations, and the observance of contracts in private life, and of treaties in public life, is one which commends itself most to the approbation of enlightened mankind. Here we have a provision in this treaty staring us in the face, requiring us to extend the protection of government to the people of Utah and New Mexico. We are told we may safely—it is not said, I admit, in terms, but it is in effect—we may withdraw from the fulfilment of our obligations, and leave this people to themselves, to work out their own happiness and salvation in such way as they can!

In what circumstances will this country be if Congress adjourns without a settlement of this boundary question, and without establishing Territorial Governments for Utah and New Mexico? In what condition would the people of New Mexico be east of the Rio del Norte in their conflict with Texas? Sir, I need not remind you of what every body knows of the settled dislike, the insuperable antipathy existing on the part of the people of New Mexico towards Texas, denouncing and denying her authority, contravening the existence of her laws, and

ready, if they had the power to do it, to resist her claim of jurisdiction to the last extremity. And yet theyare to be left to take care of themselves. They have got a government goodenough for them!

Mr. President, that is not my conception of my duty as an American legislator. My duty tells me to perform what we have promised to perform; my duty tells me to extend to this people in Utah and New Mexico the benefits of that supreme authority residing in the city of Mexico which they had constituted a part of the republic of Mexico; but which, when they came to us, we promised to extend to them from Washington, on our part. That is my conception of duty, and I will undertake to perform it, if I can. If I cannot do it on account of the Wilmot proviso, or if, as the result of any other obstacle that may be thrown in the way, I cannot accomplish what I deem my duty, I shall stand acquitted in the sight of God and my own conscience; I shall be irreproachable as to any deliberate neglect, even if I fail in the attempt to perform my duty.

I will close this part of what I have to say by grouping, comparing, and contrasting the features of the respective plans of the Executive and the Committee, which I shall be glad if the Reportors will publish in parallel columns:

The President's plan proposes an adjustment of only one of the five subjects which agitate and divide the country.

The President's plan proposes the admission of California as a State.

He proposes non-intervention as to slavery.

But he proposes further non-intervention in the establishment of Territorial Governments; that is to say, that we shall neglect to execute the obligation of the United States in the treaty of Hidalgo—fail to govern those whom we are bound to govern—leave them without the protection of the civil authority of any General Government—leave Utah without any government at all, but that which the Mormons may institute—and leave New Mexico under the military government of a Lieutenant Colonel.

His plan fails to establish the limits of New Mexico east of the Rio Grande, and would expose the people who inhabit it to civil war, already threatened, with Texas.

He proposes no adjustment of the fugitive slave subject.

He proposes no arrangement of the subject of slavery or the slave trade in the District of Columbia.

Thus, of the five subjects of disturbance and agitation—to wit, California, Territorial Governments, the boundary question with Texas, the fugitive bill, and the subject of slavery in the District—

His plan settles but one, leaving the other four unadjusted, to inflame and exasperate the public mind, I fear more than ever.

Under his plan, one party, flushed with success in the admission of California alone, will contend, with new hopes and fresh vigor, for the application of the Wilmot proviso to all the remaining territory; whilst the other party, provoked and chagrined by obtaining no concession whatever, may be urged and animated to extreme and greater lengths than have yet been manifested.

The Committee's plan recommend an amicable settlement of all five of them.

That of the Committee also proposes the admission of California as a State.

They also propose non-intervention as to slavery.

They propose action and intervention by the establishment of civil government for the Territories, in conformity with treaty and constitutional obligations. To give the superintending and controlling power of our General Government, in place of that of Mexico, which they have lost; and to substitute a civil instead of that military govenment, which declares it will assume an attitude of neutrality in the boundary contest between New Mexico and Texas.

Their's proposes a settlement of the boundary question, and, being settled, a civil war with Texas would be averted.

They offer amendments, which will make the recovery of fugitives more effectual, and at the same time, it is believed, will be generally satisfactory to the North.

They propose to interdict the slave trade in the District, and to leave slavery there undisturbed.

They propose to adjust all five of them on a basis which, it is confidently believed, is just, fair, and honorable, and will be satisfactory to the people of the United States.

They offer the olive branch of peace, harmony, and tranquility.

Under their plan, all questions being settled in a spirit of mutual concession and compromise, there will be general acquiescence, if not satisfaction; and the whole country will enjoy once more the domestic peace, concord, and reconciliation.

Whilst the President's plan is confined to a single measure, leaving the Governments of Utah and New Mexico unprovided for, and the boundary between Texas and New Mexico unsettled, another, and one of the most irritating questions, is left by him, without any recommendation or any provision, to harass or exasperate the country.

He fails to recommend any plan for the settlement of the important and vexatious subject of fugitive slaves. He proposes no plan of settlement of the agitating questions which arise out of this subject. I will repeat, let him who can, stand up here and tell the country, and satisfy his own conscience—when the whole country is calling out for peace, peace, peace; when it is imploring its rulers above and its rulers below to bring once more to this agitated and distracted people some broad and comprehensive scheme of healing, and settle all these questions which agitate this afflicted people—let any man who can, not in the public press, but in the Senate of the United States, stand up and show that the plan which is proposed by Executive authority is such a one as is demanded by the necessities of the case and the condition of the country. I should be glad to hear that man. Ay, Mr. President, I wish I had the mental power commensurate with my fervent wishes for the adjustment of these unhappy questions, commensurate to urge upon you and upon the country forbearance, conciliation, the surrender of extreme opinions, the avoidance of attempting impossibilities.

Sir, I know there is a floating idea in the Southern mind, such as we have heard before, of the necessity of an equilibrium of power between the two sections of the Union—of a balancing authority. However desirable such a state of political arrangement might be, we all know it is utterly impracticable. We all know that the rapid growth and unparalleled progress of the northern portion of this country is such that it is impossible for the South to keep pace with it; and unless the order of all republics shall be reversed, and the majority shall be governed by the minority, the equilibrium is unattainable. But, sir, because there is not and cannot be, and in the nature of things it is impossible that there should be, equilibrium of power between the two sections of this country, does it therefore follow that the southern portion is in any danger with respect to that great institution which exists there, and is cherished with so much solicitude? I think not. I believe not. All apprehensions of danger are founded on flagrant abuses of power; and the possibility of such abuses would prevent all investment of power, since no human power is free from the danger of abuse. But what are the securities of the maintenance of Southern rights connected with that peculiar institution? In the first place, there is that sense of truth, that sense of justice which appertains to enlightened man, to Christian man. In the next place, there is the Constitution of the United States, with the oath which all take to abide by that Constitution. Next, there is a necessity for the concurrence of both branches of Congress before any act of legislation, inflicting a wrong upon that Southern portion of the country, could take place. Then there is the veto of the President of the United States, applicable to any unconstitutional legislation, which might take place in reference to that institution. Last of all, with regard to peaceful and civil remedies, there is the Supreme Court of the United States, ready to pronounce the annulment of any unconstitutional law which might unconstitutionally impair such right; and there is also a sense of responsibility on the part of Senators and Representatives to their constituents. But last, though I trust in God the occasion for its exercise will never arise, there is that right of resort to arms and to make forcible resistance when oppression and tyranny become insupportable.

Nor is this great interest of the South, this institution of slavery, the only one to be affected by the fact that it is in a minority. Is it peculiar to that interest? No, sir. How is it with the fishing interest? How with the navigating inte-

rest? They are both greatly in the minority. How is it with the manufacturing interest? In the minority. How is it with the commercial interest? In the minority. In short, without continuing the enumeration, every interest in this country is in the minority except that great and all-pervading interest of agriculture, which extends from one end of the country to the other. We must be reconciled to the condition which is inevitable. There is all reasonable security against any abuses which may be inflicted in the progress of events, which you can no more arrest than you can seize and hold the beams which are poured forth from that great luminary of the system of which we compose a part, or than you can stop in its onward course the flowing of the Mississippi river, and compel it to turn back to its sources in the Rocky and Alleghany mountains. It is utterly vain to suppose you can acquire that equilibrium of which we have heard so much, between the slaveholding and the non-slaveholding portions of the Union. It is not necessary, I hope; it is not necessary I believe; but, whether it is or not, it is unattainable, by the operation of causes beyond all human or earthly control. And to oppose the immutable and irrevocable laws of population and of Nature is equivalent to a demand for the severance of the Union.

I conclude by repeating that there are five wounds which by the Committee of compromise are proposed to be closed. Sir, I know not what may be said. I know it will be said that agitators will, even after the passage of all these measures, continue to agitate; that the two extremes will still cry out for their respective favorite measures; that the Wilmot proviso, although Territorial Governments will be established, will be pressed, to be added by a supplementary act, or to be incorporated in the constitutions which these Territories may establish. I know it may be urged—indeed, I have heard it stated on this floor, "Pass all your measures, and we will cry out for repeal." I know something, I think, of the nature of man. I know something of the nature of my own countrymen. I speak also with the authority and with the aid of history. At the time of the memorable Missouri compromise, as at this—and I have been unable to determine in my own mind whether more solicitude and anxiety existed then than now—the whole country was in an uproar, on the one side, for the admission of Missouri, and on the other for her exclusion. Every legislative body throughout the country—I believe there were twenty-four then—had denounced or approved the measure of the admission of Missouri. The measure was finally carried by a small majority; only six in the House of Representatives, where the great struggle, where the long-continued exertion was carried on. And what were the consequences, the tranquilizing consequences which ensued throughout this distracted country? The act was every where received with joy, and exultation, and triumph; and the man who would have dared to interrupt the universal and deep-felt and all-pervading harmony which prevailed throughout the country in consequence of that adjustment, would have stood rebuked, and repudiated, and reproached by the indignant voice of his countrymen. And I venture to say if this measure of compromise goes to the country with all the high sanctions which it may carry—sanctions of both Houses of Congress and of the Executive, and of the great body of the American people—to a country bleeding at every pore, to a country imploring us to settle their difficulties and give once more peace and happiness to them, I venture to say that the agitation will be at an end, though a few may croak and halloo as they please. There are a few miserable men who live upon agitation, men who are never satisfied until they can place themselves at the head of a little clique of agitators, and, fastening them to their tails, go the Democratic party and say, "take me, I am a good Democrat, and I will bring to you this capital which I have, and ensure your success;" or go to the Whig party and say, "take this little balancing power which I possess, and I

will enable your party to triumph over their adversaries." I venture to say they will be hushed into silence by the indignation they will meet every where, in their vain and futile attempt to prolong that agitation which has threatened this country with the most direful calamity which in all the dispensations of God could befall it.

Sir, I am done. I would say much more, but I cannot longer trepass upon your time. I did not expect to have said so much, and my physical powers will not permit me to say more.

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SPEECH

OF

MR. SHIELDS, OF ILLINOIS,

ON THE

TERRITORIAL QUESTION.

DELIVERED IN THE SENATE OF THE UNITED STATES, APRIL 5, 1850.

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1850.

THE STATUTES OF ILLINOIS

RELATING TO

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DELIVERED IN THE SENATE OF THE UNITED STATES, APRIL 5, 1850.

The Senate having under consideration Mr. FOOT's motion to refer Mr. BELL's Compromise Resolutions to a committee of thirteen, (the pending question being upon an amendment proposed by Mr. BALDWIN to except from the reference so much as relates to the admission of California as a State)—

Mr. SHIELDS addressed the Senate as follows:

Mr. PRESIDENT, it was not my intention, when this debate commenced, to take any part in it. I had not the vanity to suppose that anything I could say would contribute in the slightest degree to the work of conciliation; and I felt extremely anxious, if I could do no good, to abstain, at all events, from doing any injury. But, sir, the discussion has become so general, and so many have participated in it, that I fear, if I remain any longer silent, my silence may be misconstrued, and my course misunderstood; and that it is due to myself and my constituents to make a few explanatory observations; and I promise that these observations will be the honest convictions of my mind.

The Senate, sir, has hardly yet recovered from the effects of its great loss. Death has bereaved this body of one of its most illustrious members. This bereavement will be long felt in this Senate, and in every city, town, and hamlet, throughout this broad land, from the Atlantic to the Pacific ocean. Sir, one of the great lights of this continent has just been extinguished; one of the most brilliant stars of our political galaxy has disappeared forever. A star that shed its lustre, not only on the proud and noble State of South Carolina, but on this whole country, has been removed from our sight—translated, I trust, to a higher and purer region, to shine in a brighter firmament. Sir, it is with feelings subdued and deepened by this sad event, that I enter this morning upon the simple and humble duty of defining my position, and explaining the motives that will govern my future action in this body, upon the delicate questions now under consideration.

The State of Illinois, which I have the honor in part to represent, has thought proper to give me instructions for my guidance and government on the subject of slavery in the territories. I recognize the full right of my State to give me such instructions, and I consider it to be my duty, as one of the Senators from that State, to obey them. I regard the will of my State, when fairly expressed, as a political trust,

which it is my duty to discharge in good faith, if I can do so without any violation of the Constitution of my country. The resolutions of the Legislature of Illinois instruct me to vote for the application of the Wilmot proviso to all the territories acquired by the late war with Mexico. These resolutions I consider constitutional, and, as such, it is my duty to obey them. In my humble opinion, the Congress of the United States has full power and authority to govern all the territories, including the District of Columbia, in all respects whatsoever, including the introduction and the exclusion of slavery, subject to no limitation or restriction, except that contained in the Constitution of the United States. In other words, I believe that Congress can exercise all governmental control over the territories, which is not in conflict with the provisions of the Constitution. I cannot understand the argument I have heard urged in this chamber, that Congress can declare war, conquer a country, subjugate a people, and annex both country and people to the United States, and yet that it has no power to govern them after they have been annexed. Upon this principle Congress can destroy a government, but cannot replace it; can annex a people, but cannot govern them; can regulate a territory, but cannot regulate the people; can govern the land and the habitations, but cannot govern the inhabitatnts of the territories. Sir, there is something incomprehensible in this argument, something so unreasonable in this proposition, that I cannot believe it, or accept it, on the authority of any man, however distinguished as a statesman. But I do not wish to pursue this argument any further. I have merely alluded to it for the purpose of declaring that I regard the instructions as constitutional, and that it is my duty, as well as my determination, to obey them.

Sir, in saying this, I do not wish to be understood as laying down any rule for the government of others in similar cases. I merely wish to prescribe a rule in this particular case for my own government—and that is, to obey *constitutional instructions*, or *resign*. This, I take it, is a good, honest, old-fashioned, Democratic rule, upon which I can stand and act with honor and safety.

It will be readily perceived that this restriction upon my action will prevent me from giving my support to the proposition now under consideration, or to any compromise on the question of slavery in the territories. I am a little afraid of this committee of thirteen, any how. I hardly think it can do any good, and I am afraid it may do much injury. In my opinion, the mind of every member of this Senate has been long made up on all these questions. A great Senatorial committee like this will excite great public expectation, and if this expectation be disappointed the effect may be extremely prejudicial.

Mr. Foote, (interposing.) I wish to make one single suggestion to my honorable friend, that he has misunderstood the motion which I have had the honor to present. A "compromise" is not mentioned; "adjustment" is the word. And, if he is in favor of adjusting the questions, he must go for the motion.

Mr. Shields. Well, sir, I am not so critical, perhaps, in my knowledge of words as my honorable friend from Mississippi, and I will change the word *compromise* for the word *adjustment*. However, in acting under the instructions of my State, I am determined to act in good faith;

and, therefore, I cannot support the proposition of my honorable friend from Mississippi for what he calls the "*adjustment*" of these questions, or any of the propositions of compromise on this subject. But, sir, while this is the case, I am far from thinking that it is my duty as a Senator from Illinois, knowing as I do the spirit and patriotism of the people of that State, to stand here in my place, and wage a war of fierce denunciation against this and every other proposition, which may have been matured and brought forward by the highest minds of this body, for the settlement and adjustment of our unfortunate difficulties. It would be especially unworthy of me, who have been the recipient of the generous though perhaps unmerited sympathy of this whole country, to contribute my puny efforts in this body to widen the breach between the North and the South, and to excite the passions and prejudices of one section of this great country against another. I think I ought to be one of the last of living men to be guilty of such conduct.

Sir, I have seen northern men and southern men stand shoulder to shoulder in many a struggle. I have seen northern and southern blood mingle on many a field. I have seen northern and southern men follow the glorious standard of a common country to common victory, and to many a victory. And, with all these recollections still around me, I would consider myself criminal to take advantage of my present position to excite hate and animosity between brethren of the same country, having the same glorious history and the same common destiny, the same pride in the past and the same hope for the future; especially as I sincerely believe that the very men now engaged in this unfortunate controversy would to-morrow, if necessary, unite in a common struggle, for their common country, against a hostile world. Sir, I have no sympathy—no communion of feeling—with those men who employ their energies in exciting and maddening one portion of their countrymen against another. I have seen and felt the ruin and wretchedness that have followed the success of such unhallowed efforts in other lands, and I am persuaded that a similar result would attend the success of such efforts here. Yes, sir, the full and complete success of these unholy efforts here would be the ruin of this republican Government, the destruction of this great temple of American liberty.

Mr. President, I regret to say that the proceedings of Congress, during the present session, have been characterized by extraordinary passion and excitement. Criminations, invectives, and personalities have too often disfigured our debates, and have even threatened, on some occasions, to bring us into angry personal collision. These were ominous indications in an American Congress, and particularly in an American Senate, which has been uniformly distinguished heretofore for the dignity, propriety, and decorum of its proceedings. But, sir, not only here, but throughout the whole country, the indications seemed ominous of some impending evil. The North was in a state of perfect apathy, while the South was in a state of furious excitement; the North was glorifying the virtues of the Wilmot proviso, while the South was organizing the Southern States, and preparing to assemble a great Southern Convention at Nashville, that could have no purpose—I mean to say no practical purpose—but the dissolution of this Union. I say practical purpose, because I hold that, unless the South is prepared to urge

matters to the last extremity, that Convention ought never to be held. In my opinion, it would prove deeply injurious to the character of the South. Mr. President, I looked upon this unnatural state of things—this singular national discordance—one portion of the same country in apathy, and another palpitating with excitement; one portion unmoved and indifferent, and the other preparing for revolution, as the presage of some great national evil. I know, sir, there may be others less timid than I am, who may have looked upon all this with something like indifference; but I am not one of these indifferent men; I can be indifferent in nothing, and least of all upon questions that involve, not only the existence of this Government, but the existence of liberal government throughout the world. To me this is not merely an American question; it is a mundane question. I look upon it in connexion with the question of civil liberty and human progress in other countries, because I am convinced that, if the great experiment of republican government fails on this continent, it need never be attempted again in this world.

And, sir, I began to fear that the experiment was about to fail; that the glorious institutions which you have received as a legacy from a wise and noble ancestry, and which you hold in trust, not for yourselves only, not for this generation alone, but for future generations, for posterity and humanity, were, by some fatality, by some judgment perhaps of Divine wrath, or by some of those terrible conjunctures which destroy the best of human institutions, approaching a dark, premature, and inglorious end. And was there not cause, sir, for serious alarm? Was it not felt by every member of this body? The South complains of grievances and aggressions, and complains vehemently. I think the South exaggerates these grievances; but, doubtless, it has some grounds of just complaint. But let me say, the North complains of grievances also, and it has some just grounds of complaint also. Individual, sectional, and national grievances exist under every Government on the face of the earth; and grievances, I fear, will continue to exist forever, and under every form of human government. But suppose, sir, all the grievances of which the South complains to be wholly imaginary, (and some of our Northern friends think so,) does this lessen the imminence of the danger? No, sir; by no means. On the contrary, imaginary grievances are often more dangerous than real ones. Real grievances can be redressed; for imaginary grievances there is no remedy. Sir, more than half the great convulsions that have shaken this world have sprung from imaginary grievances.

It is not real dangers that are present to us; it is prospective dangers—dangers that loom and lower in the distant future—that frighten and alarm us most. These are the dangers that excite men to acts of folly, and urge them on to the most fearful extremities. And, sir, there are times and seasons when it is impossible to account for the folly of human conduct any how. There are periods when men and nations rush blindly, or, rather, with their eyes open, on certain and inevitable destruction. This is the history of the world. The annals of nations are filled with instances of this kind—with periodical instances of folly and phrensy. One generation builds up, and another pulls down—one generation founds empires, and another destroys them. This has been the

history of the world for six thousand years, and will continue, I fear, to be its history forever. And without meaning to cast any reflection upon the generation to which I belong, I must say, that when I saw the total failure of the people of Europe, in their recent struggles, their unsuccessful efforts, to ameliorate their condition and reform their institutions, I began to fear that there was something wrong in the character of the present age, and that the responsibilities of this great Government had fallen, perhaps, on a generation unequal to the present crisis, and incapable of wielding, at this critical juncture, the destinies of this great Republic. But, sir, when we see assembled in this chamber, as if by the special ordination of Providence, the highest intellects of this nation—minds matured and moderated by experience, and exalted and ennobled by patriotism—men capable of comprehending the dangers and difficulties of the crisis, and having the courage and capacity, and, I may add, the national reputation, to grapple with these dangers, and triumph over them—I think we may conclude, and conclude joyfully, that Heaven still smiles on this favored land; that the glorious stars, the appropriate emblem of this great Republic, are not yet destined to set in darkness and blood, but to illumine for ages—I hope forever—the broadest and brightest political firmament that ever sheltered liberty, civilization, and humanity. My admiration and enthusiasm have been often excited this session, at the extraordinary efforts of the great statesmen of this body to work out some just and equitable plan for the settlement of our unfortunate difficulties. When I saw the distinguished Senator from Kentueky, now in the chair, present his great plan of national compromise, and when I listened to his thrilling eloquence and fearless enunciation of great moral truths, in favor of liberty and humanity—truths as old as the laws that govern the moral world, and which will live and kindle the hearts of millions, when the present generation is mouldering in the dust—I felt that there is a heroism higher and holier than any that ever inspired a conqueror to tread his way through blood and battle to victory and immortality. I forgot on that occasion that I was a Democrat, and that he was the great leader of the Whig party. I remembered nothing but the great cause and the great advocate. I saw nothing but the great Republican, and the great American. I do not allude to the distinguished Senator from Kentucky for the purpose of invidious distinction; on the contrary, I refer to him as the type, or rather as the central figure, of a host of intellectual giants, who have employed their time, and talents, and energies, this session, in the great Republican and American work of compromise. I call the work of compromise emphatically American. A fearful controversy has raged here, and throughout the country, this whole session. A controversy that excites the strongest and deepest feelings of our nature—a controversy, as it were, between sentiment and interest, liberty and slavery. And yet, no man now, either in this body or the other hall, seriously contemplates any other result than its amicable adjustment, by an honorable and a national compromise. Well, sir, my notion is, that this controversy could not have raged one month, in any other country on earth, without a national convulsion. Why is this, sir? Because the people of this country are trained and educated to settle all their difficulties, public and private, by just and honorable compro-

mise, while the people of other countries, in great national difficulties, are accustomed to have immediate recourse to force. Sir, there are only two principles employed in the government of the political world—*force* and *compromise*. Some nations are governed by both principles, others by *force alone;* but this is the only nation that has always been governed by compromise since the foundation of the Government, and it must continue to be so governed as long as it continues to be a Republic. Sir, where *compromise ends force begins*, and when *force* begins *war* begins; and the tocsin of civil war is the death-knell of Republicanism.

Mr. President, I am in favor of the admission of California into the Union as a State. Here there is no room for compromise. I am also in favor of keeping the question of admission unconnected with any of the other exciting questions now before the Senate. A great measure, like the admission of an independent State, should, in my opinion, be determined on its own intrinsic merits, and not in connexion with any other question, however important. If California is entitled to admission, it is unjust to the people of that territory, and unwise as a principle of legislation, to make that admission depend upon the doubtful issue of any other question. You have done injustice enough to the territories already; you have refused to give them governments of any kind; and when they come here with governments formed by themselves you refuse to sanction them. Sir, upon the annexation of New Mexico and California, it was the imperative duty of Congress to extend the blessings of government to the people of those territories within a reasonable time. No considerations of policy could exonerate Congress from this obligation. The highest trust that God commits to man is that of government; and when he disregards this trust, he sins against God's appointment, and does grievous wrong to those whom fortune has made dependent upon him for government and protection. Sir, you have done wrong, and grievous wrong, to the people of the territories: you tore them from their own government; you severed them from their own people; you annexed them to your country; you made them a part of your people—and all by force; and you refused to give them government of any kind, and left them in a state of anarchy. You poured out blood and treasure to win these territories, and when you acquired them you abandoned them. Sir, Congress has consumed more time in talking, quarrelling, and wrangling over these territorial acquisitions, without doing any thing for them, than your army took to conquer Mexico, dismember that country, and annex the territories to the United States. So far as my experience goes, I can vouch for it that your soldiers perform their duty much more promptly and efficiently than your statesmen.

The people of the territories, it is true, have formed governments for themselves, and governments perhaps better adapted to their anomalous condition than any that could be fashioned for them by the wisdom of Washington. And this only proves, that, when their Government fails to provide for any portion of the American people, they are competent to provide for themselves. In my opinion, California has worked out the most hope-giving problem of this age. It has demonstrated the capacity of man for self-government. The mind of man can scarcely conceive of any condition in which human beings could be placed more

unfavorable to the establishment of order and government than that of California. The people were an assemblage of every kindred, tongue and nation—thrown together promiscuously in a wild, distant, desert region of the world—away from all the restraints of civilization, and engaged, not in the peaceful pursuits of agriculture, but in wild adventure, and a reckless grapple for gold, "the root of all evil," and certainly the cause of more than half the evils of civilized society. Now, sir, I should like to know how the experiment of leaving such a people, under such circumstances, without any government, would have worked in any other country in the world. The rulers of Europe think it necessary to employ armies of soldiers, and armies of policemen, and dungeons, racks, and scaffolds, to keep their loyal people in order and subjection. What would such rulers have predicted of California? Why, that it would prove to be an earthly *tophet*, a sort of *terrestrial pandemonium*. But no such thing, sir. To the honor of human nature, and to the eternal honor of American character, that imbued that society with American loyalty to law and order, the people of California established a government, and that government, from the hour of its establishment till this hour, has given more effectual protection to life and property and the pursuits of industry than any government of Europe during the same period.

Sir, California furnishes the strongest demonstration of this age in favor of the inherent capacity of man for self-government, when left to the free exercise of his native faculties. And it is the loudest condemnation of those systems of government which first debase and brutalize man, and then punish and oppress him because he is debased. Without the aid of law, or, rather, by virtue of a better law than ever was enacted by Congress—the law of truth and justice in their own hearts—the people of California organized their society, framed a constitution, and established a government, and they now present that constitution for our acceptance; and, sir, if we have the law of truth and justice in our hearts, we will receive this constitution at once, and welcome California into the Union.

But, sir, it is said by some that California must be remanded back to a territorial condition; that it must remain quietly in that condition until Congress finds it convenient to give it a government. Others say that California can have no government until Congress agrees upon some general plan for the settlement of all our difficulties: first, our territorial difficulties—a government for Utah, and another for New Mexico; secondly, the settlement of the boundary between New Mexico and Texas, and whether we are to have a slave State or a free State carved out of Texas; and, finally, the settlement of the question of slavery and the slave trade in the District of Columbia. Now, sir, my opinion is, that if you keep California out of the Union until you settle all these questions by satisfactory adjustment, it needs a vast amount of Christian patience, because, at the rate you dispatch business here, California may stand some chance of admission at some indefinite time between now and the millennium. Sir, this is perfect mockery. It is to say substantially to the people of California: "You must break up your government, resolve yourselves again into a state of anarchy, go back and live quietly and peaceably, and behave yourselves well, and neither rob nor

kill one another, if you can avoid it, until we can settle all our difficulties, all questions connected with slavery, to the satisfaction of the North and the South, and then we will extend the blessing of government to you—we will give you a government exactly suited to your condition." This, sir, I suppose, is Congressional justice to California. I wish to say most respectfully to my Southern friends, that I cannot conceive what advantage they expect to derive from the rejection of California. It puzzles me to divine the secret of Southern policy on this point. Whether California is a State or Territory, whether it has any government or no government, no Southern slave owner will ever venture to carry his slaves to that country. Slavery can never be established there. With law or without law, Southern men will never dare to carry their slaves there. The people of California are working out a great social problem—a problem that has never yet been worked out successfully any where else: and that is, to make *labor—hard labor*, dignified and respectable. I trust in God they may succeed. But do you think the people engaged in this work will suffer themselves to be jostled by slaves? No, sir; never. The sons of Southern planters, the high-spirited sons of Southern gentlemen, would be the first to resist and resent such an experiment. Sir, the whole united South dare not venture to carry slaves to California for the purpose of establishing slavery there. In California, at this moment, there are one hundred and fifty thousand men; not old men, women, and children, but young, active, daring, adventurous men—the flower of the youth of our country—men such as never settled a new country before. Before a year rolls round California will number half a million of the same sort. If I searched this world for an army, I would take the men collected in California. I tell you, sir, the South and the North, and the whole country united, can never force slavery on them. Napoleon trampled down Europe with fewer men and worse material. Sir, they are laying the foundation of a great empire on the shore of the Pacific—a mighty empire—an empire that at some future day will carry your flag, your commerce, your arts, and your arms into Asia, and through China, Hindostan, and Persia, into Western Europe. Talk about carrying slavery there—of imposing such a blight upon that people—of withering their strength and paralizing their energies by such an institution! No, sir; such a thing was never intended by God, and will never be permitted by men.

I am one of those who believe that the laws of Mexico abolishing slavery are still in force and operation in California and New Mexico. I understand the great principle of law to be this: When one country conquers another, the political laws, that is, the laws prescribing the duty of the subject or citizen to the Government are abrogated. And why? Because the conquered Government goes out of existence, and the conquering Government takes its place; but municipal laws—laws between man and man, made for the protection of life and property—remain in force, and must of necessity remain in force, for the preservation of society, until modified or repealed by positive enactment on the part of the conquering Government. Now, this is an old principle of law, a little older than modern civilization, yet it has been as seriously questioned and denied on this floor as if it had arisen for the first time on the conquest of Mexico. It is sometimes urged here that our Con-

stitution carries slavery with it wherever it goes, unless positively excluded by law; in other words, that slavery is the *normal law* of this Republic. I think the principle is just the reverse. Slavery, being in violation of natural right, can only exist by positive enactment; and the Constitution of this country only tolerates slavery where it exists, but neither extends nor establishes it anywhere. But, sir, I have heard it seriously argued in the Senate that the laws and edicts abolishing slavery in Mexico were all irregular, and therefore void; and that slavery was in full force in that country at the time of the annexation of these territories. It is extremely hard to answer such an argument as this. This is emphatically a chivalrous argument, which, though it may not convince a man, is well calculated to astound him. I will merely say that the poor Mexicans made a great many honest and earnest attempts to abolish slavery, and if they have failed to accomplish that object they have been very unfortunate in all their efforts. I have no doubt that the people of Mexico will be highly edified when they learn that their old acquaintances, the "*Norte Americanos*," about the time they discovered the "El Dorado," in California, made another discovery, and that is, that, their laws, edicts, and constitution to the contrary notwithstanding, slavery was still in force and operation in that country, without the people themselves being aware of the fact. I think, when they hear this, they will come to the conclusion that we are as invincible in logic as we are in battle.

But, sir, I will drop this subject. I care not whether there is any Mexican law or American law there, or whether the Wilmot proviso or the Jefferson proviso ever be extended over those territories, slavery can never be established in California or New Mexico. The climate, the soil, the productions forbid it. In a word, the principle of the Wilmot proviso is extended over the country by the law of nature—by the law of God—as the distinguished Senator from Massachusetts (Mr. Webster) emphatically expressed it. And were I permitted to act upon my own judgment, I would leave it under the operation of that law. Sir, you might as well undertake to plant orange groves in Siberia, as establish slavery in California and New Mexico.

I will now notice the question of boundary between New Mexico and Texas. I admire Texas as highly as any man living; I like the State and the people; they fought gallantly and successfully, and achieved their independence by a struggle as glorious and extraordinary as any of the present age. I will say, also, that we ought not to criticise the claim of Texas too closely; that we ought to be liberal to that young and gallant State. If there be a doubt, it ought to be resolved in her favor. But, to my mind, there is no doubt in the case. Texas has no right, claim, or title, to any portion of New Mexico, either on this side or on the other side of the Rio Grande. She never conquered it, never occupied it, never reduced it to possession, and never exercised any authority over it. She has no more title to Santa Fé than she has to San Francisco—not a particle. That country, and the whole of that country, was under the law, jurisdiction, and authority of Mexico, when it was wrested from that country by the arms of the United States. I care nothing about maps; I take facts, and these are the facts. I venture to say, further, that in my opinion Texas never conquered all the

country to the lower Rio Grande. There is a portion of Coahuila, south of New Nexico, on the Texas side of the Rio Grande, which I scarcely think she ever conquered. At all events I can say that when, at one time during the Mexican war, I was wandering along the Rio Grande, I found Mexican towns in the State of Coahuila, on the Texan side of the river, living quietly under Mexican law and Mexican authority; and if they had ever been conquered by Texas, it was wholly without their knowledge, for they were living in the most happy ignorance of such conquest. But, while this is my opinion, I am ready and willing to pay to Texas, for such claim as she has, enough to wipe out her whole State debt. That debt was contracted in a noble cause—the struggle for liberty—the war of her independence. The United States have got the benefit of that struggle, by the annexation of the country, and I hold that is only a generous duty, which the Government ought to fulfil, to pay Texas a sufficient sum to wipe out the whole of her State debt.

On the question of making a new State in Texas, I am prepared to say that I feel myself bound to comply with every stipulation, condition, and obligation of the resolutions of annexation. Whatever the stipulations are, we are bound by them. This nation is bound, by every principle of honor and good faith, to fulfil its obligations with Texas. No man can give any reason for the violation of these stipulations that he cannot give for the violation of every human obligation. I do not know, sir, the opinion of my State on this subject, but I take it for granted that the State of Illinois will never so far forget her duty to this nation and her own character, as to violate the plighted faith of this Government. I do not think there is a man in my State who will not consider himself bound by the engagements of his Government. The Mormons, while they lived in that State, were accused of assuming that they had authority from God to violate their engagements with men. But they have left the State, and I do not think we have any political Mormons in Illinois now. But I must be permitted to say, that I think Congress has no right to take the initiative in this matter. I think there is a wrong here; the initiative ought to be taken by Texas. It is for her to take the preliminary steps, designate the territory, and organize a new State, and when that State asks for admission into the Union, if it comes within the conditions of the resolutions of annexation, it is the duty of Congress to admit it. But I suppose the reason our Southern friends are so anxious to squeeze a State out of Texas at this time, is to bring a slave State into the Union in conjunction with California, to preserve the balance of power, to maintain the equilibrium in the Senate. Now, sir, I think there is one thing to which Southern gentlemen must make up their minds, and that is to submit to what is inevitable. The whole world must submit to what is inevitable, and the South must submit to it like the rest of mankind. I tell you, sir, what I think is inevitable—that the free States will outnumber the slave States, and that the power of the free States will preponderate over the power of the slave States. The South will lose its relative power in this nation. It is doing so every day; not by the action of Government, but by the action of irresistible laws—laws that control the moral, social, and political condition of man. You may as well

talk of equalizing the population as of equalizing the States. There is another thing the South may as well understand, (I mention this as a prediction,) and that is, that the people of the North will never consent to see one foot of free soil converted into slave soil, if they can prevent it by constitutional resistance. I believe the North does not contemplate any other mode of resistance. If free territory be annexed, it must remain free, until as a State it may choose to change its condition. If slave territory be annexed, (Cuba for instance,) let it remain slave territory until as a State it chooses to change its condition. Sir, it seems to me there is nothing unfair in all this; on the contrary, that it is just and equitable. No one, I think, in this advanced age of the world, should attempt to convert a free man into a slave, or free territory into slave territory.

Mr. President, I sincerely believe that if the South had not assumed the extraordinary position that slavery is the normal law of this country; that, like the electric fluid, it pervades all space; that it exists throughout this whole land, where not excluded by law; that slaveholders can carry their slaves like their horses to California and New Mexico, by force and virtue of the Constitution of the United States, and contrary to the municipal laws of Mexico still in force there, the terrible feeling awakened in the North on the subject of the Wilmot proviso would never have found such general expression in that portion of the country. When Southern men declare that slaves are like horses, mere chattels; that they can carry them with them into California and New Mexico by virtue of the Constitution; that the Constitution protects the right of property in chattels, and consequently in slaves, the Northern feeling revolts against such claim. And even the very best friends of the South are compelled to reject such untenable pretensions. Sir, I cannot believe that you Southern men (Mr. Clay in the chair) have absolute property in your slaves. You have property in their service, and that service is perpetual. Slavery is a state of perpetual servitude, and you have a right to employ all necessary power over the man to enforce such service. But you have no absolute property in the *man*, in that mysterious being composed of *body* and *soul;* you do not own him as you own your horse, because no human law can give you such property in him. Sir, slavery never was understood in this sense in any country, neither amongst the Romans, the Greeks, or even the Mahommedans, and it is to be deeply regretted that such a claim should be urged by Christians.

I have already said that the South may give up all idea of an equilibrium. Here it never existed, and never can exist. It is a most fanciful notion at best—the mere dream of a political visionary. You cannot balance political power; you cannot weigh it in scales; you cannot regulate it by any system of equipoises. The thing is simply impossible. Why, sir, South Carolina—a proud little State, spirited and intelligent—has wielded more political power in this Confederacy for several years past than some of the larger States of the Union. The equilibrium has been often tried, but has always failed. The French tried it, as they have tried every kind of experiment. After their first revolution they established a Government, most fancifully constructed, upon an equilibrium compounded of territory and population. It was the delight of the en-

thusiasts of that age. No liberal politician of that day seemed fully to appreciate the absurdity of the experiment but Edmund Burke; and that great English statesman, I should say Irish statesman—but England appropriated him to herself, as she does all renowned Irishmen—that great statesman, I mean to say, ridiculed the whole scheme, pointed out its absurdity and impracticability, and predicted its destruction. And, sir, the prediction was soon verified. The very first heave of the great political mass shattered the Government into a thousand fragments, and buried its projectors under its ruins. The experiment, therefore, wholly failed in France. After the fall of Napoleon, the Holy Alliance tried a similar experiment, and if any body of men possessed the power to carry out such an experiment, the members of the Holy Alliance did at that time. They settled the relative power and condition of the several States, and established a great continental system, upon what they called the equilibrium of Europe. Sir, I should like to know what has become of that system? I should like to find out the state of the equilibrium of Europe now? Sir, in my opinion, the Czar of Russia could throw the whole of Europe at this moment, with the exception perhaps of France and England, into one scale; and he would only have to throw his sword into the same scale, and in twelve months Europe would be Cossack, from the Bosphorus to the British Channel. So the experiment of an equilibrium has utterly failed in Europe. Sir, it never has succeeded, and never can succeed. The thing is impossible and impracticable. You never can maintain a permanent equilibrium between States, or nations, or parts of nations. But I am wasting time unnecessarily upon such a subject.

Now, sir, if all the dangers which the South sees in the far distant future, were, at this moment, present and pressing upon us, I would most respectfully ask Southern gentlemen to tell me what remedy they would propose in such a case? Say, a dissolution of this Confederacy—the peaceable separation of the States—an amicable destruction of this Government? I would just as soon expect to see a high spirited Southern gentleman stand up quietly to have the whip applied to his back, as to see the people of this country sit down quietly, and look tamely and unmoved on the destruction of their Government. No, sir; the very attempt would be war; the beginning of a war of which none but God could forsee the end; a war of extermination and desolation; a continuous, ceaseless, perpetual war; a war to be transmitted from father to son, from generation to generation, until your great Anglo-American race, now the pride, and boast, and glory of this continent, would become a by-word, a scorn, and a warning to the world. The very energy of your race, that terrible energy which is making you masters of this continent, would be the motive power to accelerate its own destruction—you would devour yourselves. But does any sane man suppose that the great Northwest, with all its millions—that world that is growing up between the headwaters of the Ohio and the headwaters of the Missouri, between the Alleghany and Rocky Mountains—will ever peaceably submit to see the mouth of the Mississippi river in the possession of a foreign Government? Never, sir, never. With that people it would not be a question of reason; it would be above all reason; it would be a question of necessity and of existence; a thing which they never would

quietly submit to. But there is no danger of any thing of the kind. The people of the valley of the Mississippi can never separate. They may talk about it, and threaten it, but they never will attempt any thing so disastrous. They are one people, tied together by the indissoluble bonds of physical nature. For weal or wo, for good or evil, the whole people of the Mississippi valley must share the same fate and the same destiny. And does any man suppose that this people, occupying about one-eighteenth of the habitable globe, will ever submit quietly and peaceably to see the Southeastern States establish a separate confederacy? The idea is preposterous—very little short of insanity.

But suppose the Southern Confederacy was now established—that it was quietly and peaceably established this moment—what would be the actual condition of that Confederacy? It could not exist a single day without a close and intimate connexion with some great nation, having all the elements of industrial, financial, and commercial power. The South possesses none of these elements. It has plenty of cotton, and it has brave men, and lovely women, but it is wholly destitute of all the other material elements of national power. Every man that knows anything knows this. The Southern Confederacy, therefore, would be compelled by necessity to enter into a strict alliance with some great nation—that nation would doubtless be England. Now, Old England is not a whit more partial to slavery than New England; and Englishmen have a peculiar fondness for enforcing their own views upon their loving allies. But, sir, what would be the character of an alliance between such a nation and such a confederacy? It would be supremacy on the one hand, and dependence on the other: it would be the worst kind of dependence, having all the disadvantages, and none of the advantages, of colonial dependence.

In fact, the Southern Confederacy would be a mere colony of masters and slaves, to raise cotton for the factories of England. Besides, sir, it is my firm conviction that the institution of slavery, as it now exists in the South, would not last in its present shape for the space of twenty years in that Southern Confederacy. The South might as well attempt to shut out the pressure of the atmosphere, as to shut out the whole pressure of the civilized world on its cherished institutions. Another Chinese wall would not be sufficient to protect the Confederacy from the influences of abolitonism flowing in upon it and invading it from every quarter of the civilized world. Sir, in saying this, I may be permitted to add, that the effect of abolition at this time in the South would prove most disadvantageous to the slaves. I think the negroes would be the principal sufferers by the change.

I listened the other day to the eloquent remarks of the gentleman from Virginia, (Mr. Hunter,) and I heartily concur with him in nearly all his opinions and statements on this subject. All I have seen, and heard, and read, convince me that where there are two distinct races in the same community, one inferior and the other superior, like the negro and the white race, a state of mild and gentle slavery is the safest and happiest condition for the inferior race. Equality of rights and equality in the hard struggle of life, result in the insensible but certain extermination of the inferior race. You may give the slave liberty if you please, but that very liberty is his destruction. If you emancipate

the slaves and wish to save the negro, you must separate the races. God only knows how this is to be done, but it is my solemn conviction that the universal emancipation of the African race of this country would lead to the gradual and insensible, but certain, extinction of that race.

Sir, the history of this very country proves the truth of this assertion. Where now are the Indian tribes that once roamed in wild freedom over this continent? The history of Mexico proves it. Where now are the Tlascalans, the Tolucans, the Aztecs, and the other numerous Indian nations of that country? The history of the French and British West Indies proves it. It is a melancholy fact, but it is a fact, that the negroes in these islands are rapidly becoming extinct. But, sir, let the consequence be what it may to the negro, or the white, my opinion is, that if a Southern Confederacy ever be constituted, (which God in his mercy avert!) the institution of slavery, as it now exists, will not continue in existence, in its present shape, for a quarter of a century.

Mr. President, I firmly believe that the rights of the South, notwithstanding all the annoyances to which they are subjected, are better protected under our present Constitution and Government than they could possibly be by any other scheme or plan which the ingenuity of man could devise. They are protected against the foreign world, the world abroad—by the character, and power, and majesty of this great nation. They are protected from the North by the obligation and guaranties of the Constitution. You will say no; you will say the North does not respect these guaranties. But I say the Constitution is a restraint upon the North, a powerful restraint; it imposes some restraint on all, even on the rankest abolitionists; and it imposes a binding restraint upon all those, whatever may be their abstract opinions, who love their Constitution, and their Government, and their country—their whole country—and who prefer the safety and perpetuity of this great Republic to the abolition of slavery or the emancipation of the negro; and I need scarcely say that these constitute a vast majority of the Northern people.

It is my opinion, then, that the true policy as well as the duty of the South is loyalty to the Constitution and fealty to the Government. This is the policy and the duty of the North also—the policy and duty of the whole American people. Let us preserve our Constitution, and fulfil all its obligations with true American honor and honesty, if we wish to preserve this great American Republican Government. I will no longer detain the Senate.

Several Senators. Go on as long as you wish.

Mr. Shields. I thank the members of the Senate for their kindness and patience, but I do not wish to trespass any further. However, there is one matter I forgot to allude to. I have said that it is the duty and policy of the North as well as the South to stand honestly and faithfully by the Constitution—that every patriot and honest man is bound by its guaranties. In this spirit I am prepared to vote for any reasonable bill for the restoration of fugitive slaves. The clause of the Constitution which provides for this subject is as binding on me as any other provision of that instrument; and I am ready and willing to perform my obligation in this matter. I have done.

SPEECH

OF

HON. J. CLEMENS, OF ALABAMA,

IN SENATE OF THE UNITED STATES, MAY 16 AND 20, 1850.

On the Bill to admit California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and northern boundary.

Mr. CLEMENS said:

Mr. PRESIDENT. As the Senator from Mississippi [Mr. FOOTE] has concluded his remarks with a formal and solemn announcement that this compromise scheme will pass, and, moreover, that it is to receive the warm and cordial approval of the American people—as I have heard this same announcement made here before—as I have seen it often in the public press, I hope that I also may be allowed to express an opinion on the subject. I tell the Senator that, notwithstanding his seeming confidence, it is wholly impossible for this bill to pass without material amendment. It is lingering through a wretched existence now by the mere sufferance of its enemies. We could have strangled it at its birth—three of us could have killed it yesterday—we can lay it on the table to-day.

Mr. FOOTE. If the Senator will allow me, I will explain that I did not wish to be understood as being opposed to amendments, but exactly the contrary. I am in favor of various amendments to the bill; and the reason that I objected to the vote of the Senator from Florida in favor of laying it upon the table yesterday was, that he seemed to me to be laboring to preclude all amendment.

Mr. CLEMENS. I know the Senator has repeatedly announced his willingness to see the bill so amended as to make it more acceptable; but it so happens that we never can propose an amendment which is acceptable to him. When his colleague [Mr. DAVIS] offers an amendment not half so strong as one proposed a little more than three years ago to another bill, and which then met the full approbation of the entire South, the Senator finds out that it is a "hideous usurpation"—something unheard of before—a weakening of the just cause of the South, and little short of treason to her interests.

Mr. FOOTE. Will my friend allow me to say that I cautiously avoided saying a word in relation to that amendment? On the contrary, I said distinctly, on yesterday, that though I did not deem the amendment of my colleague at all necessary, yet that I might possibly vote for it in a spirit of compromise.

Mr. CLEMENS. The honorable Senator will pardon me for saying, that although he did not say the amendment itself was hideous, he did say, that for Congress to pass an affirmative amendment of that character, would be a hideous usurpation of power; and he did say, that it was something new and unheard-of before. In reply to the Senator from Florida, [Mr. YULEE,] he repeatedly declared that he did not ask for any affirmative declaration on the part of Congress, that the rights of property should be protected in the territories. It is impossible, sir, that in this matter I can be mistaken. Now, it so happens that a stronger amendment than the one now upon your table, has, on a previous occasion, passed the House of Representatives. It so happens that, in the Oregon territorial bill, a proviso was inserted far stronger than we now propose. On the 16th of January, 1847, the following proviso was attached to the Oregon bill in the other House—or, rather, the bill passed the House on that day:

"*Provided*, That no provisions of such laws, or of any act hereafter passed by the Legislative Assembly of said Territory, shall be so construed as to restrict citizens of any of the United States, or of any territory thereof, from emigrating with their property and residing in said territory, and holding and possessing their property therein, and fully participating in all the benefits, advantages, privileges, and immunities thereof, as a territory of the United States; and all laws or parts of laws which shall prevent the full enjoyment of such rights, are hereby declared null and void."

And now, sir, when we offer a similar amendment—though in a milder form—it is promptly denounced; or, at least the speeches sustaining it are denounced, in the strongest terms—and that, too, by a southern Senator. Worse still, the Senator will have it, that the Senator from Florida [Mr. YULEE] gave utterance to sentiments which he has again and again repudiated. He arraigns a brother Senator, and insists upon trying him for opinions he does not hold. He chooses to rely upon his own recollection, and the loose report of the *Republic*, utterly discarding the authorized report in the *Intelligencer*, and the public declarations of the Senator from Florida made here to-day, in the face of the Senate. Is this the manifestation of anything like a friendly spirit, either for the amendment or its advocates? Sir, I was more than astonished to hear the Senator from Mississippi announce that he regarded it as odious and monstrous to ask an affirmance of our rights by Congress. It is what was done by every southern man three years ago; for I have no doubt that every one of them voted for and sustained it. What, then, has brought this change about? How does it happen that we dare not now demand what was then freely conceded?

Mr. FOOTE. Will the gentleman allow me to say that I was not in Congress at the period to

which he is alluding? and I now advise him that I never approved of the proviso that he has just read. I thought at the time of its introduction, and do yet think, that the gentleman who brought it forward did not exhibit, in doing so, his accustomed discretion. I feared then all the embarrassment which has subsequently grown out of it. I am of opinion that this proviso has more, or less, drawn our constitutional rights into question, as it appears to imply the possession of legislative powers on the part of the territorial government, such as I believe they cannot rightfully and constitutionally exercise. The gentleman will not fail to perceive, though, that this proviso is simply restrictive upon the territorial government, and might, perhaps, under the circumstances now existing, not be at all mischievous in its tendency, as merely prohibiting unconstitutional legislation; whereas the species of amendment advocated by the Senator from Florida proposes that Congress itself shall legislate in a manner deemed by me unconstitutional for the extension of slavery into the territories.

Mr. CLEMENS. If it was an indiscretion, it was one that met the sanction of the whole South; and I can well afford to bear the share that may fall to me, when divided among so large a number.

I do not intend to do more than allude to and deny the wild and fanciful doctrine of the Senator in relation to the "inherent right" of a handful of squatters upon the public lands to erect themselves into a sovereignty, and form a government for themselves. Neither do I wish to comment upon the authority he has brought here to sustain the position. It sounded strange to my ears to hear him reading the letters of John Quincy Adams as political truths that admitted of no denial. I do not mean to say anything of Mr. Adams but what is respectful. He has gone to give an account of his conduct before a higher tribunal than this. That he was a great man, no one will deny—a man of deep learning, of many and varied attainments—but I never heard before that it was altogether safe for a Southern man to consult him as an oracle. I recollect his celebrated declaration that he would rejoice to see the day of emancipation come, even if it flooded the whole South with blood. He is no authority for me, and if the Senator chooses to rely upon him, I can only say that, in my opinion, he has selected a most dangerous guide.

Mr. President, among the many singular developments with which this compromise committee and compromise bill have caused us to be favored, not the least remarkable is the separate attitudes assumed by the Senator from Kentucky [Mr. CLAY] and his co-laborer, the Senator from Mississippi, [Mr. FOOTE,] towards the present Administration. The Senator from Kentucky has emphatically declared that the policy of non-action is the most ruinous that can be adopted; that it is nothing short of a flagrant disregard of a sacred duty. On the other hand, the Senator from Mississippi tells us that Congress has no constitutional power to establish territorial governments, and thus broadly and unqualifiedly endorses the recommendation of the President. If the Senator is right, the President has done his duty, and his duty only. Thus we have exhibited the spectacle of a leading Democrat sustaining a Whig Administration upon the most important of all its measures, while the great leader of the Whig party of the Union—the one who has done more than any other man, or than all other men, to build it up—finds himself constrained to assail and oppose the Chief Magistrate his party have placed in power. Politics, as well as misery, sometimes make strange bedfellows, and produce curious results.

Not long since, Mr. President, the Senator from Mississippi and myself were pulling side by side in the same traces. I must add, also, that I found him so fiery a yoke-fellow, I was nearly broken down in trying to keep up with him. Now we are as wide apart as the poles. I presume he will not take it as unkind in me if I undertake to trace up the course of each, and ascertain which has abandoned his former position. I propose to read to the Senate extracts from the strongest language I have ever used in relation to the admission of California, and then to show that these sentiments were fully concurred in by the Senator from Mississippi.

Mr. BERRIEN. Will the Senator from Alabama allow me to interrupt him a moment? He has unintentionally fallen, I think, into a misapprehension in regard to the provision which he supposes passed the House of Representatives. I have the volume before me from which the Senator has read. It was my fortune to have been on the Committee on the Judiciary in the Senate at the time, and the portion which he has read, which is printed in italics, is an amendment reported by the Committee on the Judiciary.

Mr. CLEMENS. I did not say it passed the Senate, but that it passed the House of Representatives.

Mr. BERRIEN. That is the misapprehension that I desire to correct. These were the amendments reported to the bill of the House of Representatives by the Committee on the Judiciary of the Senate, when the bill was referred to them.

Mr. CLEMENS. And voted for by southern members.

Mr. BERRIEN. That I doubt not. But, as I have stated, these were the amendments reported by the committee of the Senate, but were not adopted; and the subject did not go to the House of Representatives.

Mr. CLEMENS. That is immaterial to the point I intended to make; which was, that the proposition now submitted by the Senator from Mississippi [Mr. DAVIS] was nothing new—that it had met, three years ago, the deliberate approval of southern Congressmen; it is not material whether they were members of this body or the other.

I was proceeding to show how far the Senator from Mississippi [Mr. FOOTE] was entitled to the merit of consistency. At the close of his speech he said that he expected to be attacked by ultraists, and *desired* to be—adding "I am no ultraist." Sir, the Senator's memory must be exceedingly defective, or he must have a remarkable facility for changing his opinions. On yesterday he announced with great emphasis that he was as ultra as any southern man in Congress; to-day he says he is no ultraist, and invites assaults from men of that character.

Mr. FOOTE. Will the honorable Senator allow me to say simply that when I employed the word *ultra* to-day, I intended, as will plainly appear from the context from which he is now striving

to detach it, *ultraism* of that kind which demands impracticable amendments of the Constitution, through the agency of the Nashville Convention? Without the least disrespect to any one, I will say that I meant to declare that I was not an ultraist of the *Wigfall genus*.

Mr. CLEMENS. Nor am I. I have never asked for an amendment of the Constitution. I have never believed we could get it. I do not believe we can get our rights under the Constitution as it is. I am willing to abide by the bond as it is signed, but I have no hope that others will.

I understood the Senator from Mississippi [Mr. FOOTE] yesterday to say that the admission of California, with her present constitution and boundaries, was not a wrong of which the South had any right to complain—that the people of California had formed the constitution, and excluded slavery—that they had a right so to do, and that her admission was no concession to northern feeling.

Mr. FOOTE. I stated distinctly when I was upon that topic, on yesterday, and when the Chair very properly called me to order, that I was still opposed to the admission of California as a separate measure, and could only consent to the act of admission as a part of a general plan of compromise. I say so yet, and would look upon its separate admission as authorizing the strongest measures of resistance on the part of the South.

Mr. CLEMENS. The Senator argued at some length to prove that there was no concession on either side; and certainly if this doctrine of *inherent right* be correct, no one has any right to question the propriety of what the Californians have done. Let us see if he has always held similar opinions. I have here a letter addressed by the Senator and his colleagues to John A. Quitman, Governor of the State of Mississippi.

Mr. FOOTE. If the gentleman will allow me, I will state very frankly the circumstances connected with the drawing up and signing of that letter before he reads it, leaving it then to his own discretion to make any use he pleases of it. It did so happen one day, during the session of this body, that a letter was handed to me, addressed to the Governor of Mississippi, and subscribed by several of my colleagues, having reference to the movement then in progress in the House of Representatives for the separate admission of California as a State into the Union. Being exceedingly occupied at the time, and having the most unlimited confidence in those who sent the communication to me for my signature, I signed it without any special examination of its contents. After an hour or two the idea suggested itself to my mind that, as the matter to which it related was of great importance, it would be well enough to request that the letter should not be sent to the post office until it could be more particularly looked into. The proper steps were taken for its detention accordingly, and a meeting of the Representatives and Senators from Mississippi was called for the ensuing night, at the room of one of our colleagues. This meeting took place, and the letter first drawn up being regarded as more or less objectionable, I sat down at the writing table and sketched such a communication as I thought best, which had the fate also of being rejected. A third letter was then, rather hastily, drawn up by one of my colleagues, which is the one now in the hands of the honorable Senator from Alabama; which, being agreeable to all my colleagues then present, I did not object to, and subscribed it. In that letter it was stated that, in the opinion of us all, the admission of California, under existing circumstances, would be equivalent to the adoption of the Wilmot proviso. I still think, as I then thought, and have repeatedly declared in debate here, that such act of admission, as a separate, substantive act, would be, if anything, worse than the Wilmot proviso; and it is only as part of a general scheme of compromise that I could vote for the admission at all. The letter, as will be seen, failed to suggest this distinction, as was but natural, inasmuch as the scheme of compromise now under consideration had not then been introduced. I had some slight objection to the letter at the time, in reference to this point, but, from respect to my colleagues, all the rest of whom, then present, were satisfied with it, I forbore to express it. But I did so a few days thereafter, to one of my colleagues now present, as he will, if necessary, attest. This is the whole affair, so far as I now recollect it, which will be seen by all to be of rather an unimportant character to be thus formally introduced to the notice of the Senate. But, as the Senator from Alabama seems solicitous to make some political capital out of it, he is quite welcome to make any use of it he pleases. I can assure him that my constituents are too intelligent to condemn me very harshly upon so slight a foundation as this letter can furnish.

Mr. CLEMENS resumed the floor, but gave way to

Mr. DAVIS, of Mississippi, who said: If the Senator from Alabama will allow me, as I am somewhat involved in this question, and as my name has been introduced as a witness on both sides of the question, I suppose I must testify. The first fact is as my colleague has stated. We met together; and after a long and full discussion—after rejecting one letter, writing another, and rejecting that, we agreed upon a third; that is the one we transmitted. As I understood it, we finally agreed merely to declare our view of the position in which the question then stood, and without suggestion to refer it to the Legislature and people of Mississippi. After it had been determined thus to submit the question, avoiding any expression of opinion upon our side as to the course to be pursued, I thought the letter was reduced to a statement of that which we all held to be a fact.

I did then, and do now, consider that when, without proper authority, the people of California assembled in Convention, and assumed to strip us, by their fundamental law, of the right which it had been threatened to take from us by the Wilmot proviso, and when the validity of that act is dependent upon congressional confirmation, that such confirmation is not essentially different from the other form of direct exclusion by Congress, known as the Wilmot proviso.

Mr. FOOTE. I wish not to be misunderstood in this matter. I said in the beginning that the letter was sent here by the author, and signed without examination, (as I do many letters every day,) in consequence of the unlimited confidence I had in the gentleman who sent it. But I say further, that, during the day, I thought there was something in the phraseology which was not exactly right. Indeed, I thought it was not necessary to write

any letter, and I so expressed myself. We made use of the name of one of our colleagues in the House, who happened not to be present at the meeting, which circumstance will serve to show that the transaction was at least rather loosely conducted. We did have a long conversation, and we talked about a great many Mississippi matters. We discussed the first letter for a time, and then my letter was draughted. I was willing to sign that and to stand by it forever. After that, the letter of my colleague in the other House was draughted, who had draughted the first one, if I understand the matter correctly. Having a great regard for him, I did not wish to be hypercritical; in fact, I did not examine the letter perhaps as closely as I should have done, for I did not wish to wear the appearance of seeking a disagreement with colleagues so much esteemed. I certainly at the time, as my colleague knows, had some little doubt as to the expediency of the movement; but I must say I have so much of the spirit of compromise about me, and I wish so much to fraternize with my colleagues, that I did not hesitate to sign the letter at all; and no doubt I should do the same thing again if a similar occasion were to arise. I am willing to be fully responsible for the letter, with this explanation; and I say again that the Senator from Alabama is perfectly welcome to use the letter against me to any extent and in any manner suited to his own taste. Honorable Senators here know, and the country knows, the importance which I have constantly attached to uniting the territorial and State bills, and how hard I have struggled against the admission of California as a separate and distinct measure, unconnected with those compensating advantages connected with the plan of compromise lately reported to us. No man living can say, that since the proposition was before the Senate to admit California as part of a general plan of settlement, I have declared myself opposed to it. The honorable gentleman is welcome to ransack my speeches from the beginning of the session up to the present moment for testimony against me upon this point, and he will find none. I have struggled night and day, for months past, to secure the conjunction of the bills, believing firmly that a separate act of admission would be grossly unjust to the South, and might endanger the Union. I should have been shamefully stupid, or faithless to those with whom I was acting, had I struggled so hard to unite these bills into one comprehensive scheme of settlement, with the intention of afterwards aiding in its defeat.

As to the charge of inconsistency, in the first place I am not guilty as charged; secondly, if guilty in the precise manner and form alleged, I am not apprehensive of receiving any very serious punishment at the hands of my generous-hearted constituents for an offence so trivial. I will inform the honorable gentleman that I do not set up any claims to absolute consistency, and have always held such claims, by whomsoever set up, as not a little ridiculous. I have been guilty of inconsistencies at different periods of my political life far more serious than the one specified. It was my misfortune once even to err so far as to suspend my connection for a few months with the Democratic party; that is to say, I did not act with it for a short period of time. But the people of Mississippi did not punish me very signally for this; on the contrary, they nobly forgave me, and sent me here to labor for the safety and happiness of the Republic, without any regular solicitation of that high honor at their hands—as several now present know that I was elected to the Senate whilst avowing my desire that a distinguished friend of mine should be chosen in my place. I can assure the honorable gentleman that he is welcome to amuse himself with that letter as long as he pleases, as I am not apprehensive of receiving the least detriment from it here or elsewhere.

Mr. DAVIS. Will the Senator from Alabama allow me to say a word merely in explanation of this latter point.

The PRESIDING OFFICER. The Chair is under the necessity of interposing. This is a matter not germane to the subject under consideration. Senators must be strictly restricted in their remarks to the subject-matter under discussion. The Senator from Alabama will proceed.

Mr. CLEMENS. As the Senator has objected to my reading the letter, I will let that pass. I propose to try him by the congressional record—by opinions not only deliberately uttered, but deliberately revised and corrected. I shall read from one of my own speeches, which was fully endorsed at the time by the honorable Senator from Mississippi. The extract is in reply to a question by the Senator from Kentucky:

"I answer that *every thing* is conceded by the admission of California. The whole matter in controversy terminates at once. The North gets all she has ever asked—gets it by the action of Congress, and in direct violation of the great legal principle that the wrong-doer shall not profit by his own wrong.

"Who among us does not know that *agitation* in the State Legislatures and in the national Congress has prevented southern emigration to California, and placed the country in the power of those who have imposed this restriction? Who is there so blind as not to see that this has been the result of aggressions commenced here? And who does not feel that Congress is responsible for the fact that slavery has been excluded? Property is proverbially timid. The slaveholder would not carry his property there with a threat hanging over him that it was to be taken away by operation of law the moment he landed. Agitation, then, in Congress—repeated declarations made everywhere—in State Legislatures—in conventions—in the public press—from the pulpit even—that slavery should be excluded by law, has deprived us of our constitutional rights as certainly and effectually as any positive enactment could have done, and we are not only asked to submit to it, but to accept it as a boon, and be very thankful for an outrage. Sir, I prefer the Wilmot proviso direct. I prefer it because it is bolder, plainer, and more manly. The robber who meets me on the highway, and demands the surrender of my property, leaves me at least the option of a contest, and is entitled to far more respect than the assassin who lurks behind a corner and stabs in the dark. So, sir, he who undertakes to deprive me of my legal rights by open means, is always entitled to higher respect than he who seeks to accomplish the same end by deception and trickery. I hold that whatever opposition is due to the Wilmot proviso, whatever resistance it demands, is doubly due to this scheme of smuggling a sovereign State into the Union."

This is strong language certainly, but it was not too strong for the taste of the Senator from Mississippi at that time. He endorsed it fully. I suppose he thinks it but little short of treason now.

At this point the honorable Senator gave way to

Mr. BUTLER, who moved that the further consideration of the subject be postponed till Monday next.

Mr. FOOTE. I trust that motion will not prevail. I do hope that the Senator from Alabama will be allowed to go on and finish his remarks.

The motion to postpone till Monday was agreed to.

MONDAY, *May* 20, 1850.

Mr. CLEMENS said: Mr. President, when the Senate last adjourned, I was examining the course pursued by the Senator from Mississippi, [Mr. FOOTE,] and attempting to show that if the opposers of this bill were justly chargeable with *ultraism*, we could at least plead his example in extenuation. The task was an ungrateful one to me on many accounts. The Senator from Mississippi and myself represent adjoining and kindred States. Our own personal relations have been of the kindest character. I hope and believe they will continue to be so. There were other reasons, also, which impelled me strongly to avoid any controversy with him, however courteous in its character. Even after it was begun, in the interval which followed the adjournment of the Senate, I had determined to say nothing more upon the subject. But the course which has been since pursued by the advocates of this bill renders it impossible for me now to close. The extraordinary efforts which have been made to manufacture public sentiment in its favor, and the denunciations hurled against those who, from a deep sense of duty, have expressed their opposition to a scheme of compromise so delusive and so dangerous, demand an exposure of its deformities. Certain letter-writers from this city have been industriously engaged in misrepresenting the acts and assailing the motives of those who, in common with myself, believe this to be a shameless surrender—not a compromise. One in particular has admonished me that the Senator from Mississippi holds a proud position in a great *national* party, and therefore he cannot afford to be *ultra*. I have no doubt that the Senator has a national position, and I hope he may always retain it. I hope, also, that the people of the South may take the view of the question suggested, and, while repudiating his doctrines, that they may still cherish the kindest feelings for the man. It may not be amiss, however, to say a few words of this thing called *national reputation*. It is something I value very lightly. We are apt to prize objects in proportion to the difficulties which attend the pursuit, and, estimated by this rule, national reputation is of quite too easy attainment to be sought with any great avidity. We all know a process by which any of us may secure it. It is not even beyond my grasp. I should only have to turn traitor to my convictions of duty, and abandon the interests of the South, to change entirely the notes of that whole pack of curs who are now yelping at my heels. Sir, I want no national reputation purchased at such a price. I spurn it as I would any other foul and loathsome thing.

When the Senator from Mississippi addressed us, the other day, he took occasion to inform us that he did not regard consistency as any great virtue, after all. Perhaps he was right. In some degree, I certainly agree with him. A mere mortal, whose judgment can never be clear and perfect, ought not to adhere with blind and dogged obstinacy to all his opinions. It may be my fault to cling to mine with too much tenacity. Still, I think of the two extremes it is the best. I must think it better to hold on to opinions once deliberately uttered than to acquire the habit of changing them with every change of the moon. How far the Senator is justly liable to the last charge, will appear in the progress of my remarks. He has constituted himself the advance guard of the grand compromise army. He has assumed to deliver lectures here upon the dangerous tendencies of *ultraism*. I propose to show that, if it be a sin, it is one of which he has himself so lately repented, that he has hardly had time to obtain forgiveness. He has not only endorsed the strongest language ever used by me, but he has gone very far beyond me. On Thursday I read to the Senate an extract from my own remarks, and said that, strong as this language was, it was not too strong for the taste of the Senator from Mississippi at that time. I shall now read his indorsement. In reply to the Senator from Kentucky, he said:

"Sir, had the honorable Senator confined himself to the propounding of terms of settlement, however unfair and oppressive to the South, or had he been contented to advocate the resolutions of compromise which he has introduced here with all his well-known eloquence, I should not have been disposed to complain of him in the least. Though I certainly concur with my esteemed friend from Alabama, who has spoken to-day with a strength and brilliancy seldom if ever surpassed in this body, in all that he has said touching the true character and effect of the resolutions of the Senator from Kentucky; though I certainly agree with the Senator from Alabama, that these resolutions yield up the whole ground of controversy to our insatiate adversaries; though the speech of the honorable Senator from Kentucky, in support of these resolutions of his, was, in some respects, highly objectionable, both in phraseology and in substance, yet I could have borne all this patiently, and did do so. I could have remained silent, or contented myself with a solemn protest against his course. But, sir, the honorable Senator from Kentucky has thought proper to play the censor upon this occasion. He has deemed himself authorized to disapprove, in strong and pointed language, of what has been said by southern Senators relative to the dangers which are now so fiercely menacing the Union, and those dire results which all must at last perceive will be the inevitable fruit of that aggressive policy against which the South has been so long and so zealously contending."

Now, Mr. President, I wish it to be remembered, that my remarks applied exclusively to the admission of California. I had spoken upon no other subject—alluded to no other matter. The Senator from Mississippi avowed his full concurrence in all that I had said, and thus directly asserted, that the admission of California was worse than the Wilmot proviso itself. Let me ask him if he would be willing to-day to vote for the Wilmot proviso, *as part of a general scheme of compromise*? and, if he would not, how can he reconcile to himself to vote for a measure which he has formally declared to be worse? Sir, this is a dilemma from which there can be no escape. Whether singly, or as a part of a general scheme, that which is worse than the Wilmot proviso can never be sanctioned by the South, without a total abandonment of all claim to equal rights under the Constitution. On the same occasion the Senator sought an opportunity to denounce, with great bitterness, the resolutions offered in the early part of the session by the Senator from Kentucky. I have asserted, and I still maintain, that those resolutions and this scheme are substantially the same. The Senator from Kentucky himself, when called on to point out the difference, could think of but one—and that was the omission in the report of two truths, as he called them, contained in the resolutions—the one of law, the other of fact: the one, that slavery was excluded from the territories by the law of Mexico; the other, that it was excluded by the law of God. Well, sir, if these two truths were omitted in the report, they were not omitted in the speech which accompanied and explained it. In that speech the Senator from Kentucky reaffirmed his two truths in the most emphatic man-

ner. He did more. He avowed that his object was, to leave the laws of Mexico in force, and exclude slavery forever. I do not intend to leave this matter in doubt. I read from the speech of the Senator from Mississippi, who sits behind me, [Mr. DAVIS:]

"But the Senator from Kentucky has avowed his purpose that the *lex loci* shall remain; that the right to hold this property shall be determined by the *lex loci*. Now, this strikes me as strange, coming from one who, two days since, in language so decided, so eloquent, even fervent, arraigned the non-action policy of the Administration, which would leave the local law still in force. To us, where is the difference? The Senator's view, equally with the policy he condemns, would prevent our southern citizens from going there with this species of property; and though I do agree with him as to the continuance of Mexican laws, his position shows the extent to which our rights are to be respected and maintained. This is important to me, though, in common with most southern men, I hold that the law of Mexico was repealed (except within the narrow limits of the relations of person and property preëxisting and remaining in the country) on the acquisition of the territory. That is my opinion; and I hold that no political laws exist in the country to which this bill refers, except those resulting from the legislation of Texas. The Senator from Kentucky holds a different opinion; and therefore it is to his opinion that my remarks apply. His object is to leave the laws of Mexico in force. If I misunderstand the Senator, I will listen to his correction.

"Mr. CLAY. The Senator understands me perfectly."

And yet, after all this, the Senator from Mississippi [Mr. FOOTE] announced in our hearing that he liked the speech better than he did the report. O! what miserable work we make of it, when the hard task is imposed upon us of sustaining wrong and injustice! God knows I thought the report went far enough; but there were others, it seems, who preferred a more unequivocal avowal that the rights and interests of the South were to be utterly disregarded. There was a time when the Senator from Mississippi held other opinions. There was a time when he did not hesitate to denounce such sentiments in terms of eloquent indignation beyond my powers to equal. Sir, let me read to him his own language—let me refresh his recollection of his own just and generous sentiments. Even now, it may not be too late to recall him to the path from which he has wandered so widely:

"On several occasions in Congress, the honorable Senator has been known in former years to exhibit himself more or less, as a decided disapprover of the system of domestic slavery in the South. Last summer, he took another step, and recommended to the people of Kentucky, in a deeply interesting letter, the adoption of a system of prospective emancipation. The publication of this letter brought on a contest in that State, which was waged heatedly and actively for several months, and not without some bloodshed, but which happily terminated in the utter defeat of this plan of emancipation. A short time since, the Free-Soilers of Ohio, and I believe of several other States, held a convention at Cleveland, at which they adopted resolutions more objectionable to the South than any which had antecedently appeared. A committee of this convention wrote a letter to the honorable Senator from Kentucky, to which he replied, approving fully the objects of their assemblage, and giving his assent to their general doctrines. Such was the predicament of the honorable Senator when he came among us at this session; and what has been his course here? Why, sir, I feel bound to admit that the honorable Senator has been quite consistent. His first important movement was the introduction of his resolutions of compromise. And what are these resolutions? Why, one of them is formally declarative of the hated Wilmot proviso principle; another brings in California; another, by inevitable implication, asserts the power of Congress to abolish slavery in the District of Columbia; another proposes to abolish the slave trade in the District of Columbia; and all this is to be conceded by the South without any compensating advantages whatever. I am certainly not a great deal surprised that such terms of adjustment should have been brought forward by the honorable Senator from Kentucky, taking into consideration the events of his public life already referred to; but I shall certainly always remain unable to perceive in his resolutions any of the features of a genuine compromise.

"And what sort of a speech was that by which these resolutions were accompanied? Why, sir, I undertake to say that there is more in the sentiments and language of that speech to mortify southern sensibilities, to awaken dissatisfaction, and to provoke resentment, too, as well among all who are not quite convinced as I am of the purity of the honorable Senator's motives, than we find in any speech of professed abolitionists, not excepting even the far-famed Garrison, and Phillips, and Douglass. Certainly no speech at all approximating to this one of the honorable Senator from Kentucky has ever been delivered before in either House of Congress. I will not particularize; but I am sure that all who have read that speech will admit that I have done it but simple justice. Why, sir, a speech so replete with offensive doctrine—so dogmatical and overbearing in its tone—so menacing in its spirit, no man but one possessing the moral prowess which so eminently distinguishes the honorable Senator from Kentucky, could ever have been able to enunciate. I am sure that the honorable Senator from New York [Mr. SEWARD] will never dare to deliver such a speech here; the honorable Senator from New Hampshire, [Mr. HALE,] with all that rhetorical heroism which he displayed among us the other day, would recoil from the utterance of much that fell with an easy grace from the lips of the honorable Senator from Kentucky; and the honorable gentleman from Ohio, [Mr. CHASE,] I am confident is too moderate and forbearing in his temper ever to deliver such a philippic as this against the whole system of domestic slavery, and against the efforts of the southern States of the Confederacy to protect themselves against menaced aggressions. Sir, I feel that no other member of the Senate, besides the Senator from Kentucky, could have pronounced such a speech in the hearing of southern men, without calling forth a response full of indignation and asperity."

I hope the Senator from Mississippi will compare the first speech which he assailed so bitterly with that speech for which he has expressed such extraordinary admiration. I am sure that comparison will reveal to him the most extraordinary change of opinion and position which even his experience has ever furnished.

Mr. President, there is not an important feature of this compromise of which the Senator from Mississippi has not, at one time or another, expressed strong disapprobation. How it happens that jumbling them all together has removed so many deformities, and added so many beauties, is something which passes my comprehension. When the Senator from Missouri [Mr. BENTON] introduced a bill to purchase a portion of Texas, and establish the boundaries of the remainder, the Senator from Mississippi at once discovered that it was a proposition pregnant with the most terrible dangers to the South. He distinctly affirmed that every foot of the territory so purchased "would be claimed infallibly as subject to the Wilmot proviso." Then, after commenting upon certain resolutions adopted by northern legislatures, he adds:

"Yes, sir, all these things I knew, and, I hope, duly appreciated; but never did it enter my head to conceive that there was in existence a human being—a member of this illustrious body, too, representing among us one of the slave States of the Confederacy—who would dare to take it upon himself to bring forward a bill like that which has made its ghastly apparition among us this morning, and which, if it become a law without amendment, will completely unsettle the question of slavery in all the vast domain which it proposes to purchase from the State of Texas. * * * * * * * * *
The bill now brought forward, as will be perceived by those who will examine it, nullifies this Missouri compromise principle in all the territory proposed to be purchased, and every acre of it is placed in the same plight and condition precisely as California and our other recently-acquired possessions."

It is well the Senator informed us that he had no great regard for consistency. He pro-

poses now to cut off ten degrees of latitude from the State of Texas—enough for three free States—which we have his authority for saying will be infallibly subject to the Wilmot proviso. He proposes further to tax us from ten to fifteen millions of dollars for the *privilege* of making them free States, and adding to the vast power now threatening to crush us; and then, by way of adding the most galling insult to the deepest injury, he demands that we shall accept this outrage as a compromise—as *compensation* for the admission of California. Sir, if I must take this nauseous dose at all, I mean to take it in separate parcels. I prefer that California should come in singly to coupling her admission with a surrender of ten degrees of slave territory for the formation of free States. I prefer that there should be an open exercise of power, rather than an insidious compromise which not only surrenders everything in dispute, but surrenders also the right to complain or resist. I read again from the same speech:

"My bill originally proposed to pay to Texas a specific sum, just one-half of the sum now proposed by the Senator from Missouri, for her ownership of the public lands situated in the country, commonly called New Mexico, north of a line to be run in an easterly direction from the Paso del Norte to the head waters of the Red River; cautiously reserving, though, to the territory in which the right of property in a portion of the public lands was thus to be purchased the principle of compromise imbodied in the resolutions of annexation. This *reservation*, it will be at once perceived, is an arrangement which cannot be dispensed with, without incurring the risk of immediately multiplying the number of free States, and deeply endangering the whole southern section of the Union.

"This I had resolved to offer as a *new scheme of compromise;* which, with the establishment of a territorial government in New Mexico, in Deseret and California, and the ultimate admission of California as a State, when freed from her present unfortunate organization, I hoped might tend to settle the vexed question of the Wilmot proviso forever. I should certainly have offered the whole bill as it was first drawn up, and in the form in which I had submitted it to the consideration of various sage friends with whom I am in the habit of counselling upon this subject, but for certain proceedings in several of the free States of the North, of which we have been recently notified, which satisfied me that I could not offer anything that at all bore the characteristic features of a *compromise*, without encouraging our arrogant foes to fiercer and more extended aggressions, and bringing down other and more irritating insults upon the southern States of the Confederacy.

"The resolutions of Vermont, now upon your table—the incendiary messages of the governors of Pennsylvania and Massachusetts—the truly demoniacal resolutions now before the New York legislature—the extraordinary harangues made in this hall since we assembled—these and other facts of a kindred character satisfied me that the season for compromise had forever passed by; or that at least, if propositions of compromise were hereafter to be offered, they ought to emanate from the North. I became satisfied that the time had arrived when it behooved southern Senators and Representatives in Congress to stand firmly and resolutely up in strict maintenance of our constitutional rights, as they were secured by our venerated forefathers; leaving it to the champions of aggression and the perpetrators of injustice to determine whether they would indeed take upon themselves and their constituents the responsibility of dissolving that Union which was once so justly dear to the heart of every American. With these views I contented myself with offering the bill which I am now asking to be allowed to introduce, curtailed of those other provisions which have been now brought forward, in a disguised form, by the honorable Senator from Missouri."

At that time the Senator would consent to no adjustment which did not contain an express reservation that all south of 36° 30′ should be slave territory. Now he insists upon giving up that same territory as low as the 32d parallel of latitude, without any reservation whatever. Comment upon such glaring inconsistency would almost be an insult to the Senate.

We learn further, sir, that he then regarded the mere offer of a compromise by a southern man as wholly unjustifiable—weak, unmanly, and craven. I hope he will pardon us if we have learned his lessons too well, and when called on to pass judgment upon the degree of guilt we have incurred, he will remember that if we are not gifted with his facility for change, it is a misfortune rather than a crime.

On the 22d of January, in reply to the honorable Senator from Connecticut, he favored us with a statement of certain important facts of which he has suddenly become entirely oblivious:

"I had heretofore recognized the honorable gentleman as a regular and diligent reader of newspapers, and should have supposed it hardly possible that he should have failed to see it published in many of the now leading gazettes of the Union, as most certainly I did, that a member of the California Convention itself [Mr. Botts] rose up in his place, just at that precise moment when General Riley vacated the chair in the Convention, which he had continued to occupy during its whole session, and said, in substance, that he felt authorized to state the fact, that coercive power had been employed to bring about the state of things then existing in California, and that the constitution then about to be adopted had been forced upon the people of California. He charged further that orders had been given, in the most solemn and imposing manner, by the powers at Washington, that unless such constitution as was adopted should be to the taste of certain high personages here—perhaps including the honorable Senator from Connecticut, (for he may have admonished them on the subject by a circular for aught I know)—unless such constitution were adopted as would be suited to the taste of distinguished gentlemen in Washington, (including the President and his Cabinet,) the whole influence of the Executive would be thrown against the admission of California as a sovereign State; and that, on the contrary, in the event of such constitution as should prove agreeable being adopted, then that influence would be exerted, through all legitimate modes, for the purpose of bringing California into the Union as a sovereign State."

I am not a little curious to know what has removed the unfavorable impressions made upon his mind by the enormities here enumerated, or what evidence he has since received to convince him the charges are untrue. If he has any such evidence in his possession, he owes it to the President to retract the grave charges heretofore made.

I read now, sir, from another speech of the honorable Senator, made on the 29th of January last.

"8. If all other questions connected with the subject of slavery can be satisfactorily adjusted, I see no objection to admitting all California above the line of 36° 30′ into the Union; provided another new slave State can be laid off within the present limits of Texas, so as to keep up the present *equiponderance* between the slave and the free States of the Union; and provided, further, all this is done by way of *compromise*, and in order to save the Union, (as dear to me as to any man living")

Thus, we see that he was unwilling to admit even that portion of California north of 36° 30′, without a new slave State, for the purpose of keeping up the *equiponderance* between the free and the slave States; and not then, unless it was necessary to the salvation of the Union. What has become of his doctrine of *equiponderance* now, when he not only takes California without a slave State, but gives three free States to get her?

On the 13th of February he imbodied his opinions in a series of resolutions, and submitted them to the Senate. The 4th resolution is in substance the same as the paragraph last read, and contains doctrine very widely different from that he now advocates:

"4. *Resolved*, That, in the judgment of the Senate, California is not, at the present time, absolutely entitled to admission into the Union as a State; that whether she should be admitted or not, is a simple question of expediency; that it would be altogether impolitic to admit her with the bound-

aries specified in the constitution recently adopted by her convention, or with a territorial surface extending south of the compromise line of 36° 30'; that it would be unwise to grant such admission, if it should be hereafter made to appear that her present civil organization has been brought about by unfair, unconstitutional, or coercive action on the part of the Federal Government, or any of its functionaries; and that, all other impediments being removed, such admission should, under existing circumstances, only be allowed to take place under a clear and distinct understanding and agreement that a new State may be hereafter formed within the present territorial limits of the State of Texas, in accordance with the articles of Texan annexation, and be admitted into the Union at as early a period as practicable."

The 9th resolution is equally condemnatory of another feature of the present compromise:

"9. *Resolved*, That it is inexpedient to legislate at present in regard to the prohibition of the trade in slaves in the District of Columbia, and that it is a matter which may be well left to be regulated by the municipal authorities of said District."

Mr. FOOTE. I prefer that now.

Mr. CLEMENS. I have no right to judge of his preferences. I am arguing against the bill. I find the bill which he advocates contains this provision. It is one of the features he himself has denounced. I am stating it as an objection, and I have produced his authority to sustain me.

I have now shown that every feature of this compromise, when taken separately, has met the strong and decided disapproval of the Senator from Mississippi. What healing virtue there is in tacking them altogether, I confess myself wholly unable to comprehend. Not long since he declared, with an earnestness which left no doubt of his sincerity, that the admission of California would dissolve the Union in six months.

Mr. FOOTE. I think so yet.

Mr. CLEMENS. The Senator says he thinks so yet—meaning her separate admission. Now, Mr. President, let me ask him if, according to his doctrine of *inherent right*, he can complain of the adoption of a constitution by the people of California? Can *he*, of all men, say her admission will be an outrage? Has he not precluded himself from the assumption of any such ground? He has told us that the people whether five hundred or five hundred thousand, have an inherent right to form governments for themselves. There were certainly more than five hundred people in California. According to the Senator from Mississippi, they had an inherent right to assemble and adopt a constitution. How, then, can he venture even to vote against her admission? Will he assume to obstruct them in the exercise of an admitted and acknowledged right? Sir, I must say that the speech of the honorable Senator from Mississippi, and his unqualified indorsement of this dangerous heresy, are likely to be productive of far more disastrous consequences than all the speeches of all the Free Soilers together. And still, after doing all he can to prove that the admission of California is no wrong, he does not hesitate to threaten us with terrible consequences if, by any act of ours, her separate admission should be hastened. Why, sir, if I could rely on the Senator's argument, and take his dicta for truths, I should unhesitatingly say that the great wrong contained in the present bill is the dismemberment of Texas. If I believed in the soundness of his views, I should at once move to separate the measures, so that California might come in, and the partition of Texas be rejected; but entertaining insuperable objections to the whole bill in its present form, I shall, if the amendments offered by myself and others are voted down, move to lay it on the table. What may then follow, I do not know. One thing, however, I do know: No consequences can deter me from acting according to the dictates of my best judgment; and that teaches me no bill can be worse than this.

The Senator from Kentucky [Mr. CLAY] asked us the other day what was the necessity of quarrelling about a matter of no practical importance—that slavery was excluded from the territories by the law of God, and could never be introduced. I answer his question by another. If it is a matter of no importance, why can he not yield? If he has entire confidence in the opinion he has advanced, why insist upon a restriction which will add nothing to his security, and must go very far to irritate and inflame the southern mind? Why does he demand that all the concessions should come from us, while he stubbornly refuses to make any himself? Concession, sir, when made by the strong, is apt to be regarded as generosity, but, when made by the weak, can never free itself from the suspicion of slavish fear. The North may well afford to make a concession on this point—we cannot.

A few more words, Mr. President, and I am done. I am told I ought to take this bill because it is the best I can get. Sir, I do not know that; but if I did, the same argument might be urged with equal force in favor of unconditional submission to any wrong ever perpetrated by the strong upon the weak. Good God, sir! has it come to this, that an American Senator is to ask himself, not whether a measure is unjust, iniquitous, and oppressive, but whether *it is the best he can do?*—not whether he will consent to wear chains at all, but whether the links are to be round or square?—not whether he will bare his shoulders to the lash, but what is to be the color of the cowhide with which they are inflicted? Sir, when I consent to ask myself such questions, I hope the walls of this Capitol will fall upon me and crush me. When I stop to inquire into the *degree* of oppression rather than the *fact*, I shall feel that degradation has reached its lowest deep, and existence is but the privilege to be infamous.

Mr. President, I have endeavored to show—and that is the extent of the task I proposed to myself on this occasion—that the Senator from Mississippi at least has no right to deliver lectures upon the subject of *ultraism*, and that in all we have done we have had the sanction of his authority. I pray, then, that the next time he has occasion to administer rebukes, he will deal with us more mildly than heretofore.